The Solicitors' Journal

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Current Topics.

Sir Thomas Inskip.

HAVING filled with distinction on more than one occasion the office of Attorney-General, and thus justifiably entitled to look forward to attaining high judicial rank, which certainly he would have adorned, Sir THOMAS INSKIP has once again, with great public spirit, placed himself at the disposal of the Prime Minister by agreeing to transfer his administrative abilities to the newly created and very important post of Minister for the Co-ordination of Defence, an appointment which carries with it membership of the Cabinet. It will be remembered that on the formation of the National Government a few years ago, when Sir WILLIAM JOWITT became Attorney-General, Sir THOMAS, although having previously served in that office, agreed, in the emergency which had arisen, to serve in the subordinate capacity of Solicitor-General. Most men who had served in the senior post would have declined to derogate by accepting the lower: not so Sir THOMAS, who considered it his duty to support the new Government, although only filling the second place in the ranks of the law officers. It is true that very soon he was back as Attorney-General. Now, at the call of duty, he resigns the lucrative Attorney-Generalship to take over the difficult and much less remunerative task of assisting in setting our national defence administration in order. Sometimes we hear of the mercenariness of lawyers, but again and again we have had signal examples of public spirit attended by the sacrifice of monetary advantages shown by members of both branches of the Profession, although this is rarely realised by the public. In Sir THOMAS's hands we may be sure that the onerous duties falling to him in his new post will be worthily discharged. As was expected, as Attorney-General, he is succeeded by Sir DONALD SOMERVELL, who has proved a great success as Solicitor-General.

The Civil List.

THE appointment last week of the Select Committee to consider His Majesty's message relating to the Civil List and other matters connected therewith makes it of interest to recall what this List is and how it came to take its present form. As generally used, the term Civil List denotes the annual income granted to the Sovereign to meet certain charges. In the old days a considerable revenue was drawn by the Sovereign from the hereditary revenues of the Crown consisting of large tracts of land in England, Scotland and Ireland, but George III surrendered his rights to the English sources in return for a fixed yearly grant. George IV surrendered his right to the hereditary revenues of England and Ireland; William IV did the same and also surrendered the title to rights in Scottish lands. Out of these funds, till comparatively recent times, the salaries of a large number of public servants were paid, but now, and for some time, these have been removed from the Civil List, which now only includes payments for His Majesty's Privy Purse, salaries of the Household and retired allowances, expenses of the Household, royal bounty, works, and a small sum unappropriated. At one time the Civil List pensions, as they were called, which might be granted each year to the aggregate amount of £1,200 as a reward for public services, attainments in literature or science, are now met out of the Consolidated Fund. In the latest edition of Anson's "Law and Custom of the Constitution" it is pointed out that during the last decade the growth in the proceeds from the Crown lands has been more than double the total Civil List payments, so that their surrender has been a distinct source of profit to the State.

Arrears.

IN the course of a speech at the 104th anniversary festival of the United Law Clerks' Society, at which he presided, at the Connaught Rooms, last Monday, the Lord Chief Justice referred to the enormous reduction in the number of cases awaiting trial in the King's Bench Division during the last fourteen years. The diminution in the number of cases—which, LORD HEWART intimated, was from something in the region of 2,000 to something in the region of 200—was obviously, it was stated, due to more causes than one. After paying tribute to the exemplary diligence of his brilliant colleagues on the judicial bench as the primary cause, the learned Lord Chief Justice urged that the reduction of arrears was also due to a general increase in public prosperity (leaving men less time and less desire for litigation), excessive and undesirable restriction of trial by jury, and—"a deplorable cause"—the persistent crabbing, disparaging and defaming of the law courts by certain persons for indirect and ulterior purposes. The speech will be fully reported in a future issue.

Lord Justice Scott on Planning.

AT the annual meeting of the Norfolk branch of the Council for the Preservation of Rural England, which was held under the chairmanship of LORD BURY at Norwich last Saturday, SCOTT, L.J., made a statement concerning the proper development of the countryside from which the following points are taken. According to the report in *The Times* the learned Lord Justice said that the preservation of the countryside was, to his mind, purely a question of planning. By planning he meant so arranging the activities of our small country that development could be carried out in the best way. As an

instance, the desirability of group building of houses as villages or round existing villages was cited instead of ribbons along the roads or the sporadic scattering of buildings over the countryside as if they had been dropped out of some giant pepper pot. "We hear charges," it was said, "against us of being æsthetic visionaries and sentimentalists. We are not. We take into account all the practical needs of modern life, industrial, social, economic. We say we recognise all these things, but so far as is possible we do not forget that beauty means a great deal in human life, and that our countryside is a precious possession that is unrivalled in this world." In reference to the Town and Country Planning Act, 1932, it was said that the most valuable provisions were ss. 3 and 4. These, it may be remembered, provide for the formation of joint committees constituted by two or more authorities and for the preparation of regional schemes. There were, however, SCOTT, L.J., continued, certain gaps in the legislation. The state of affairs to-day was of itself evidence that the Planning Act had not succeeded in doing anything like what was hoped of it. One plain reason was that the Act conferred powers and did not impose duties on a vast number of local authorities. The learned Lord Justice drew attention to the need of some central controlling authority, not to supersede the local authorities, but to supply a national plan, on the lines recommended by LORD MARLEY'S Committee.

Criminal Libel.

THE recent case of *Rex* v. *Wicks*, reported in *The Times* of 18th February, where the Court of Criminal Appeal upheld a conviction and sentence of twelve months' imprisonment for defamatory libel concerning a solicitor, throws light upon a number of questions relating to the law of criminal libel to which short reference may be made here. Criminal libel is, of course, a misdemeanour at common law and under ss. 4 and 5 of the Libel Act, 1843. The essence of the offence as compared with the wrong for which only a civil remedy is available is that the publication (which need not be other than to the person libelled) is calculated to cause a breach of the peace. Thus, in *Reg.* v. *Adams*, 22 Q.B.D. 66, where a conviction for sending a letter to a young woman vilifying her moral character was sustained, LORD COLERIDGE, C.J., said "the sending of such a letter to the person to whom it was sent might, under the circumstances of her position and character, reasonably or probably tend to provoke a breach of the peace on her part, or on the part of those connected with her." *Rex* v. *Wicks* indicates that while there may be some cases in which juries may properly refuse to convict on the ground of the triviality of the offence, it is not incumbent on the prosecution to prove that the libel is one unusually likely to provoke the wrath of the person defamed, or that such person is unusually likely to resent an imputation on his character. On the first point, reference was made by DU PARCQ, J., who delivered the judgment of the court, to well-known passages in "Hawkins' Pleas of the Crown" and in the judgment of *Reg.* v. *Labouchère*, 12 Q.B.D. 320, as emphasising the fact that a criminal prosecution for libel ought not to be instituted, and, if instituted, would probably be regarded with disfavour by judge and jury, when the libel was of so trivial a character as to be unlikely either to disturb the peace of the community or seriously to affect the reputation of the person defamed. The case last mentioned indicates what is required to support procedure by way of a criminal information as opposed to indictment in cases of defamatory libel.

Effect of the Libel.

WITH regard to the second point mentioned in the preceding paragraph, the learned judge intimated that the court could find no support for the theory in any judgment that it was incumbent on the prosecution to adduce proofs of the kind suggested and already indicated. On the contrary, the law remained what it was stated to be in 1812 by LORD MANSFIELD, C.J., in *Thorley* v. *Lord Kerry*, 4 Taunt. 355, where he said: "There is no doubt that this was a libel, for which the plaintiff in error might have been indicted and punished; because, though the words impute no punishable crime, they contain that sort of imputation which is calculated to vilify a man, and bring him, as the books say, into hatred, contempt, and ridicule: for all words of that description an indictment lies." DU PARCQ, J., in *Rex* v. *Wicks*, stated that it was of interest to observe that the question in the case just mentioned was whether an action for damages could be brought in respect of words for which it was not doubted that an indictment would lie, and the learned judge noted that it was recognised at the beginning of the eighteenth century that libel was an exception to the general rule that *mens rea* was necessary to constitute a criminal offence—see *Rex.* v. *Walter*, 3 Esp. 21.

Literary Libel.

IN the course of a letter which appeared recently in *The Times* over the names of a number of well-known authors, criticism is directed against, and interesting suggestions are made for the reform of, the law relating to what is described as literary libel. The comparative ease with which one who thinks—or asserts—that he recognises himself in some fictional character can support an action for libel and throw upon the defendant the trouble and cost of disproving the allegation is commented upon with the suggestion that no action should lie without proof that the defendant intended to refer to the plaintiff, and that damages other than nominal damages should not be awarded except to the extent that actual damage is proved to have been sustained. A further suggestion is that all actions for libel should be tried by the judge alone, juries being, it is thought, too easily influenced in certain directions and not sufficiently alive to the importance of protecting the freedom of literature in general and the right to express unpopular views in particular. So long as the judiciary remains as at present, independent of the executive, there is, of course, much to be said for the foregoing opinion, but if that independence were in any way threatened, the significance of the right to trial by jury, particularly in regard to the free expression of views inimical to the government of the time should not be forgotten. Reverting to the letter, another suggestion is made that, with a view to discouraging the bringing of "obviously flimsy or conspiratorial" actions the court should be empowered to award in a summary manner, at its discretion (and in addition to costs), a sum for damages to the defendant wherever the circumstances are similar to those in which an action for damages for malicious prosecution lies. It is not contemplated that such a power would often be exercised, but its mere existence would, it is urged, have a salutary effect in cases where an action had been launched for some indirect or improper motive and without reasonable or probable cause.

The Regulation of Pedestrians.

IT may be of some interest shortly to note the reply recently sent by the Minister of Transport to the suggestion made by the Company of Veteran Motorists, of which LORD ELIBANK is chairman, to the effect that pedestrians who ignore traffic signals and so obstruct motorists should be prosecuted. MR. HORE-BELISHA pointed out that there is at present no legal obligation on pedestrians to obey the indications given by traffic signals, and intimated that there were certain objections towards binding them to the same observance of light signals as is required from the motorist. It would, he continued, be rather absurd if, particularly during the night hours, at a junction where there is little or no traffic at all, the pedestrian had to wait on the footpath until the signals changed. Drivers had a great advantage over pedestrians in one respect. They did not have to wait in such circumstances because with the vehicle operated system which is now in

common use, an approaching car causes the signals to change if there is no cross traffic. In the not infrequent cases where signals are set for long periods in favour of main road traffic and change only if traffic approaches from a side road, pedestrians might have to wait a matter of minutes before they could cross a deserted road.

The Endorsement of Licences.

SECTION 5 (1) of the Road Traffic Act, 1934, provides: "The court before which a person is convicted of driving a motor vehicle on a road at a speed exceeding a speed limit imposed by or under any enactment, or of an offence under s. 12 of the principal Act (which relates to careless driving), shall, unless for any special reason the court thinks fit to order otherwise, order particulars of the conviction to be endorsed on any licence to drive a motor vehicle granted under Pt. I of the principal Act held by the person convicted." Reference was made to this section, and to the unequivocal terms in which it is drafted, by the Minister of Transport in response to a further point raised by the Company of Veteran Motorists. "There is," that body stated (the complaint is for various reasons not easily paraphrased), "a great resentment at the inequality of the actions of certain courts regarding the endorsement of driving licences. Members of this association are justly proud of their clean driving licences, but are very indignant when an endorsement is ordered for exceeding the 30 m.p.h. where no collision is involved, whereas, in another court, a motorist is found guilty of dangerous driving (involving a collision) and no endorsement." Mr. HORE-BELISHA pointed out that while persons convicted of disobeying the speed limit have complained that the endorsement has spoiled their clean record, it is the offence and not the endorsement that does this—the endorsement does no more than record the fact of the conviction. It was quite clear, he continued, that the legislature did not intend that actual danger should be proved before a licence should be endorsed for exceeding a speed limit. If actual danger could be proved a much more serious offence would be involved. Whatever view may be taken of the wisdom or otherwise of the endorsement of licences for technical offences, the law, as it stands, is clear on the subject, and it does not appear to be open either to the courts entrusted with its enforcement or to the Minister to ignore it. It may be recalled that a degree of lenience which, as recorded in these pages some months ago, was exhibited by one court towards offences of the type in question proved entirely fruitless and it had to be intimated that sterner measures would have to be adopted to cope with the situation.

The Solicitors' Bill in the Lords.

IT may be of interest to mention certain points which arose when the Solicitors' Bill successfully passed the second reading stage in the House of Lords last Thursday week. LORD WRIGHT, who adverted to his duties as Master of the Rolls in connection with solicitors, and stated that he had scrutinised the Bill with some care, explained that up to the present The Law Society had had no means of saying whether a solicitor who took a budding solicitor under articles was a fit and proper person for that purpose, and no means of saying whether a future solicitor who desired to enter into articles was a person who, by his character and in other respects, was fit and suited to proceed on the first step towards entering the profession. In moving the rejection LORD MORRIS described the Bill as trumpery in character, loose in draftsmanship, and mischievous in intent. He deprecated the intervention of The Law Society at this stage to render it necessary for solicitors to obtain leave in writing before taking an articled clerk and suggested that it would be better employed in doing something to stop the objectionable activities of the type of solicitor known colloquially as an "ambulance chaser" who, LORD MORRIS said, was a curse to his profession and a menace to society. In the course of a speech in favour of the Bill, the LORD CHANCELLOR indicated that it was not the fault of The Law Society but of the legislature that what had been described as trifling things could not be altered except by legislation. It was true, the LORD CHANCELLOR continued, that the Bill did not make far-reaching reforms in connection with the merits of those allowed to practise as solicitors, but that was no reason for throwing it out. The Law Society was charged with the responsibility of administering the affairs of the profession, and it would be ungracious and undesirable for the House to turn a deaf ear to them because it thought there were other more far-reaching reforms which at some later stage might usefully be enacted.

Recent Decisions.

IN *Jennings* v. *Stephens* (*The Times*, 12th March), the Court of Appeal reversed the decision of CROSSMAN, J., reported in our issue of 27th July, 1935 (79 SOL. J. 559), and held that the performance of a play at the monthly meeting of a women's institute was a performance "in public" within the meaning of s. 1 (2) of the Copyright Act, 1911, and constituted an infringement of the author's copyright.

In *Faraday* v. *Auctioneers' and Estate Agents' Institute of the United Kingdom* (*The Times*, 12th March), the Court of Appeal upheld a decision of EVE, J., who held that the plaintiff, a Fellow of the Institute, had attached himself to Harrods, Ltd., so as to break art. 38 (1) of the defendants' articles of association, which provides that no member shall establish or join, either as principal or assistant, any commercial firm or undertaking for the purpose of carrying on or assisting to carry on professional business as an adjunct to or in connection with the commercial business of such firm. The former proceedings were reported in our issue of 6th July, 1935 (79 SOL. J. 502). Leave to appeal to the House of Lords was granted.

In *Russian and English Bank* (*in Liquidation*) v. *Baring Brothers & Co., Ltd.* (*The Times*, 13th March), the House of Lords reversed a decision of the Court of Appeal ((1934), 78 SOL. J. 876) affirming an order of CLAUSON, J., staying all proceedings in the action, and held that in accordance with the provisions of ss. 338 and 342 of the Companies Act, 1929, a dissolved foreign corporation was a company in whose name and on whose behalf a liquidator was empowered to bring an action as provided by s. 191 (1) (*a*) of the same Act. Readers must be referred to the report for the circumstances in which the House (LORD RUSSELL OF KILLOWEN and LORD MAUGHAM dissenting) reached this conclusion.

In *Plunkett and Another* v. *Barclays Bank Ltd.* (p. 225 of this issue), it was held, in effect, that the relationship of debtor and creditor existing between a bank and a solicitor in respect of a "Clients' Account" opened in compliance with the Solicitors Act, 1933, and the Solicitors Account Rules, 1935, made thereunder is such as, in the absence of provision to the contrary, to render a garnishee order *nisi* served on the bank applicable thereto. The attention of readers is drawn to the remarks of DU PARCQ, J., in his judgment as to the effect of such orders on costs, if the order be so drawn as to affect a clients' account. A leading article upon the effect of garnishee orders and this important decision also appears at p. 216.

In *Potato Marketing Board* v. *Harlow* (*The Times*, 18th March), the court upheld a levy imposed by a resolution of the plaintiffs requiring registered producers to pay to them £5 for each acre by which his 1934 acreage exceeded his basic potato acreage. Basic acreage was the maximum number of acres in the occupation of a producer under potatoes in the previous year. The resolution, it was held, was passed in good faith that the Board's expenditure was likely to be increased by reason of the excess acreage which was the ground provided in the Potato Marketing Scheme, 1933, for the imposition of a levy.

Garnishee Order *Nisi* and the Clients' Account.

AN IMPORTANT DECISION.

A DECISION of the first importance to all solicitors was given by Mr. Justice du Parcq on Friday, 13th March, in *Plunkett and Another* v. *Barclay's Bank Ltd.* (*The Times*, 14th March). His lordship held that money due from the defendant bank on a client account in accordance with r. 2 of the Solicitors' Accounts Rules, 1935 (S.R. & O., 1934, No. 718) was a debt due to the solicitor who kept the account, and was therefore bound by a garnishee order *nisi*.

The plaintiffs were a solicitor practising as M. & Co. and his managing clerk, but the contention that the latter was entitled to maintain the action was abandoned, and the "plaintiff" hereafter refers to the person whose claim the court considered. In the summer of 1935 the plaintiff commenced practice, and on 23rd August, 1935, two accounts were opened in his name at one of the defendants' branches. The first was headed with his name, with the addition "trading as M. and Co." The second was headed in the same words, but the words "Clients' Account" were added. The second account was opened in conformity with the Solicitors Act, 1933, and the Solicitors' Accounts Rules, 1935, made thereunder.

Nothing was paid into the clients' account until 7th September, when £48 5s. was paid into it in cash. This was money received from a client in order to be applied in payment of rent and solicitors' costs payable by the client to a third party. On 6th September the plaintiff drew a cheque for £48 5s. on the clients' account. That cheque was sent to the solicitor for the party to whom the rent was payable and was acknowledged by him on 9th September. On the same date the former wife of the plaintiff, who had obtained a divorce from him and was his creditor for £150 17s. 9d. costs, made an *ex parte* application in the Probate, Divorce and Admiralty Division for the service of a garnishee order *nisi* on the defendant bank. This order, which was served on the defendants the day it was made, provided that "all debts owing or accruing due from the garnishees to the respondent not exceeding £150 17s. 9d. be attached to satisfy the amount due from the respondent to the petitioner." On 10th September the plaintiff was informed by the defendants that in their view the garnishee order would apply to both accounts so that no cheque drawn on the clients' account would be honoured while the order remained in force.

The cheque for £48 5s., which the plaintiff drew on 6th September, was at first presented with a somewhat illegible indorsement, and the defendants temporised by marking it "Indorsement requires confirmation." On 11th September it was re-presented, and the defendants returned it unpaid and marked "Refer to Drawer." Before the dishonoured cheque reached the payee the sum of £48 5s. was paid on the plaintiff's behalf to the payee of the cheque, and the solicitors for the judgment creditor, on being informed of the facts, expressed their willingness that the garnishee order *nisi* should not be in operation so far as the clients' account was concerned.

The claim was for damages for wrongfully dishonouring the cheque on the clients' account and also a cheque on the other account and for libel. Plaintiff's counsel agreed that the claim in respect of the cheque on the other account was subject to an estoppel based on a garnishee order made by Mr. Justice Langton on 8th October, 1935, and it only remained for the court to deal with the claim based on the cheque on the clients' account. The defence was that the moneys in the clients' account were a debt due from the defendants to the plaintiff, and that as the service of the garnishee order *nisi* precluded the defendants from paying that debt to the plaintiff the only course open to them was to mark the cheque "Refer to Drawer."

Under s. 1 of the Solicitors Act, 1933, the Council of The Law Society was empowered to make rules, to come into operation when approved by the Master of the Rolls "as to the opening and keeping by solicitors of accounts at banks for clients' moneys." Section 8 (1) provides: Subject to the provisions of this section no bank shall, in connection with any transaction on any account of any solicitor kept with it or with any other bank (other than an account kept by a solicitor as trustee for a specified beneficiary) incur any liability or be under any obligation to make an inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it; provided that nothing in this subsection shall relieve a bank from any liabilities or obligations under which it would be apart from this Act.

The Solicitors' Accounts Rules of 1935 were duly made by The Law Society and approved by the Master of the Rolls. Rule 2 provides that every solicitor who holds or receives money on account of a client must pay such money into a banking account in his name, in the title of which the word "client" appears. Rule 3 provides that only the following money shall be paid into a clients' account: (*a*) money held or received on account of a client; (*b*) such money belonging to the solicitor as may be necessary for the purpose of opening or maintaining the account; (*c*) money for replacement of any sum drawn from the account by mistake or accident in contravention of r. 4; (*d*) a cheque or draft received by the solicitor representing in part money belonging to the client and in part money due to the solicitor, when such cheque or draft has not been split, as provided by r. 2.

His lordship said that the result of s. 8 of the Solicitors Act, 1933, which clearly included clients' accounts, seemed to be that the bank should not, in the circumstances mentioned, be deemed to have any knowledge which it had not in fact as to the rights of any person to any money paid or credited to any such account. A bank, he said, was relieved by the section from any obligations to make enquiry as to the rights of third persons in respect of a clients' account. The bank, however, was not relieved by the Act from any obligations under which it would be apart from the Act, nor did the section say that the bank was to be deemed ignorant of facts which were within its knowledge, nor did it say that the bank was to be deemed to be ignorant of the law.

It needed no inquiry on the defendant's part, his lordship continued, to ascertain that the money in the account was within r. 3 (*a*) as "money held or received on account of a client." It had been paid in in the shape of notes and coin and was trust money in the same way as money recovered by a judgment creditor in an action which he brought as trustee for another (*Roberts* v. *Death*, 8 Q.B.D. 319), or money paid by a stockbroker into an account which he used exclusively for money received on behalf of clients (*Hancock* v. *Smith*, 41 Ch. D. 456). The defendants, therefore, knew that the money was trust money, but they did not know and were not bound to inquire what person or persons had an equitable claim to it.

Order 45, r. 2, of the Rules of the Supreme Court provides that service of a garnishee order binds debts in the hands of the garnishee which are due or accruing due to the debtor. If the money in the clients' account is one of these debts it is wrong, his lordship said, to pay it to the plaintiffs (*Rogers and Another* v. *Whiteley* [1892] A.C. 118, and *Galbraith* v. *Grimshaw* [1910] 1 K.B. 339). At p. 443 of the latter case, Lord Justice Farwell stated that service of a garnishee order *nisi* was an equitable charge on the property in the debt, "and the garnishee cannot pay the debt to anyone but the garnishor without the risk of having to pay over again to the creditor."

Order 45, r. 5, provides that whenever the garnishee suggests that the debt belongs to some third person, or any third person has a lien or charge upon it, the court or judge may

order such third person to appear and to state the nature and particulars of his claim upon the debt. As the material words of Ord. 45, r. 1, are "all debts owing or accruing from such third person to such debtor," the effect of r. 5 was that the garnishee was not entitled to pay the debt either to the *cestui que* trust or to the trustee for the benefit of his *cestui que* trust after service of the order *nisi*.

His lordship held that the money in the clients' account was a debt owing from the bank to the solicitor, as the bank was bound to honour the solicitor's cheques on the account and was not entitled as a general rule to set up a supposed *jus tertii* against the customer (*Gray* v. *Johnston*, L.R. 3, H.L. 1, at p. 14). His lordship added that he could not think that it was ever intended that the garnishee should be compelled to adjudicate on conflicting equities.

The question as to what might be the result where a solicitor who was a judgment debtor was not in a position to find the money necessary to satisfy the claim of his client out of his own pocket was remarked upon by his lordship. He said that apart from the duty of the garnishee to inform the court of the nature of the account it was the manifest duty of the bank, as the defendants recognised, to inform the customer at once of the service of the order and of the fact that cheques on the account could not be honoured. He added that he thought it would be well that judgment creditors applying for garnishee orders *nisi* should realise that they might incur costs unnecessarily if the order was so drawn as to affect a clients' account. He did not seek to lay down any rule, but the court might sometimes think it proper in the future to call the attention of the judgment creditor to that aspect of the matter when an order was sought against a practising solicitor, and there was no reason why in a proper case the common form of the order should not be modified. In the circumstances his lordship further held that the words "refer to drawer" were no libel (*Flack* v. *L. & S.W. Bank Ltd.*, 31 T.L.R. 344).

It is no exaggeration to say that the decision reveals that judgment creditors are armed with a terrible weapon when dealing with solicitors who are in private debt but who have maintained their clients' accounts strictly in accordance with the Act and the rules. The mere fact that the court might draw the attention of a judgment creditor to the consideration that he might incur costs unnecessarily if the order is drawn so as to affect a clients' account will not in the future deter judgment creditors from continuing to use the threat of garnishee proceedings on a clients' account and so cause solicitor debtors serious embarrassment. It is quite true, as his lordship pointed out, that the defendants in the case were in the same position as they would have been before the passing of the Solicitors Act, 1933, and the coming into operation of the rules thereunder if the clients' account had been kept voluntarily by a solicitor who, to the defendants' knowledge, guided himself by self-imposed rules having the same effect as those which were now statutory. The position, however, is now altered by the Act and rules, for solicitors are now bound to keep clients' accounts under pain of being reported to the disciplinary committee of The Law Society for default, and of a maximum penalty of £500 on appeal to the High Court. Moreover, banks are presumed to know that solicitors are under these legal obligations. The practical effect therefore of the new decision is that no solicitor will dare to permit any delay in payment after judgment has been obtained against him in any action. This is an exceedingly harsh result, and it deserves the careful attention of the Rules Committee of the Supreme Court.

An ordinary meeting of the Medico-Legal Society will be held at Manson House, 26, Portland-place, W.1, on Thursday, the 26th March, at 8.30 p.m., when an address will be given by Dr. L. A. Weatherly on "Debatable Medico-Legal Episodes in the Long Life of an Alienist." Members may introduce guests to the meeting on production of the member's private card.

Costs.

LEASES—(*Continued*).

We dealt in our last article briefly with a few of the rules applicable to the remuneration of solicitors in respect of leases. We notice, in passing, that fundamentally the basis of the remuneration is determined by the character of the rent paid. Thus, the cost of leases at a rack rent is calculated on the scale set out in the First Scale of Pt. II, Sched. I. On the other hand, if the lease is not granted in consideration of a rack rent, then the remuneration of the solicitors will depend on whether it is a building lease or a long or short lease that is concerned, a long lease being defined as a lease for more than 35 years. We have accordingly been asked for a definition of the term "rack rent," and we must agree that it is a matter of considerable importance accurately to define the term.

There is no definition of the term "rack rent" in the Order of 1882, but we do not lack an interpretation. Blackstone's Commentaries, with which we are all familiar, Vol. 2, p. 43, defines "rack rent" as being "only the rent of the full value of the tenement or near it." To say the least this seems rather a sketchy definition, for it does not express precisely what is to be included in the letting, either by way of right or liability. A variation of this definition is supplied by Holmes, L.J., in *Ex parte Connolly* and *Sheridan and Russell* (1900), 1 I.R. 6, to the effect that "a rack rent in legal language means a rent that refers to the full annual value of the holding." Even this does not help greatly, however.

The Rating Act of 1925, s. 68, provides a more precise interpretation of the term, for it defines rack rent as being the rent which a willing tenant will give for the property in a free market, assuming that the landlord will bear the burden of repairs and insurance, whilst the tenant pays the rates and other outgoings. This definition of rack rent has now become the accepted interpretation of the term, but it is not surprising to find that it is regarded as too precise for the purpose of the Order of 1882.

Happily, we are not without judicial guidance so far as the meaning of the term in its relationship to solicitors' costs is concerned, and this very point was the subject of a decision by Sargant, J., in the case of *In re Sawyer & Withall* [1919] 2 Ch. 333. In that particular case a solicitor was claiming that a rent of £525 per annum was not a rack rent because the lease contained full repairing covenants, and he sought to prove that since the lease was for a term of 61½ years it was a long lease not at a rack rent, so that the second (and more remunerative) scale of Pt. II, Sched. I, applied. His Lordship observed, however, that the scale fee is based on the bargain actually made between the lessor and the lessee as appearing on the face of the document, and that in the case of an occupation lease, if the rent represented the full consideration for the letting then it must be treated as a rack rent, although it may be found that the lease provided for the tenant bearing part of the landlord's burdens or vice versa.

We find that although no provision is made under Sched. I, Pt. I, for the costs of the vendor and purchaser's solicitor, where the same solicitor acts for both parties, there is no such omission from Pt. II of Sched. I, and r. 2 of that Part provides that in a case where the same solicitor acts for both the lessee and the lessor, he shall be entitled to charge the lessor's solicitor's scale charge and one-half of the lessee's solicitor's scale charge. In short, he will charge one and one quarter the lessor's solicitor's scale charge. No difficulties arise under this rule in the case of ordinary occupation leases at a rack rent.

We must leave over for consideration in our next article the meaning of the term "building leases" and the points arising with regard to premiums.

CONVEYANCING SCALES—NOTE.

It will be remembered that we dealt, amongst other points, with the subject of the General Order of 1925 in an article published on the 29th June last (79 Sol. J. 469), and a well-known firm of solicitors, as a result thereof, submitted a case to the Council of The Law Society and enquired whether a solicitor who negotiated on behalf of both mortgagee and mortgagor would be entitled to one and one-quarter times the negotiating fee calculated on the amount of the loan. The Council of The Law Society replied that they adhered to the opinion expressed by them on the 22nd April, 1926, and published in the "Gazette" of November, 1926, to the effect that the solicitor could only charge one negotiating fee, either the mortgagor's or the mortgagee's, and that the combined scale fee prescribed by r. 5 "could not be payable" so far as negotiating is concerned.

We are grateful to our subscribers (who, of course, obtained permission from The Law Society to forward the correspondence to us) for an opportunity of perusing the Council's opinion. It seems that that opinion is based, not on the ground that r. 5 is inapplicable to the addition to the scale in Pt. II, but on the broader ground that a "solicitor could not properly be said to have acted for both parties in negotiating a loan."

The opinion of the Council is of great value inasmuch as it settles finally the doubts which have arisen in many minds as to what is the proper charge in such circumstances.

Company Law and Practice.

Majorities at Meetings.

The ability of the majority at a meeting (whether it be of shareholders, directors, debenture-holders or creditors) to pass an effective resolution, and the requisite size of the majority in each case, are matters of such practical importance that, though much of what I shall say in this article is no doubt familiar to my readers, it will not, I think, be a waste of time to consider the question with reference to each kind of meeting.

First of all, then, with regard to general meetings of the members of a company. It was said in an old case that "whenever a certain number are incorporated, a major part of them may do any corporate act, so if all are summoned and part appear, a major part of those that appear may do a corporate act, though nothing be mentioned in the charter of the major part." So, for an ordinary resolution a simple majority of hands is all that is required, or, on a poll, a simple majority of the votes given. For a special or an extraordinary resolution there is, of course, a statutory majority required by s. 117 of the Act, viz., "not less than three-fourths of such members as being entitled so to do vote in person or, where proxies are allowed, by proxy" at a general meeting of which the requisite notice has been given; and, when a poll is demanded, in computing the majority on the poll, reference is to be had to the number of votes to which each member is entitled under the company's articles.

There are one or two points to be observed, with reference to the reckoning of majorities at general meetings, which are not, I think I am right in saying, universally realised even to-day. If the articles give every member one vote for every share, each member still only counts as one on a show of hands, irrespective of the number of shares he holds: see *In re Horbury Bridge Coal, Iron and Waggon Company*, 11 Ch. D. 109. The provision of a vote per share applies only where a poll is taken. In most modern articles this is expressly provided: see, for example, cl. 54 of Table A of the 1929 Act, which provides that "on a show of hands every member present in person shall have one vote; on a poll every member shall have one vote for each share of which he is the holder." Again, if articles permit voting by proxy, on a show of hands the vote of each person counts as a single vote only and not as a vote for each of the members whose proxies he holds: see *Ernest* v. *Loma Gold Mines, Ltd.* [1897] 1 Ch. 1, where Lindley, L.J., delivering the judgment of the Court of Appeal, said: "Absent members who vote by one and the same proxy when no poll is demanded, vote not separately as if they were individually present, but as an aggregate; their proxy, if a member, holding his hand up and so giving one vote, but only one for himself and them. Absentees, if they are to be regarded as present by proxy before a poll is demanded, vote in this way and no other." The difficulties which would result from the contrary view are described by Chitty, J., in the court of first instance in this way ([1896] 2 Ch. 572, at pp. 578–9): "Having called for the show of hands, and having seen them and counted them, the chairman is told, I will assume, that there are proxies. Thereupon he must call for another show of hands of the proxies (because it is by show of hands that this voting is to take place); having done that, he would not, even then, have got to the end of the necessary proceedings, because one man may hold one proxy and another man may hold ten proxies, and he must call, therefore, for the hands of the members who hold one proxy, then for those who hold two, and so forth until he has exhausted the whole. But that is not a show of hands. No one ever dreamed of that being the course to be pursued on a show of hands. He must do more. He must call for the proxies . . . Then he must identify the member of the company who says he holds the proxy—who holds up his hand again on his call for votes by proxy, and he must examine the proxies then and there, and keep the meeting waiting. Then he must institute a scrutiny." Incidentally, I do not think there is any rule which prevents a proxy who is not a member of the company from voting on a show of hands if the articles permit members present by proxy to vote on a show of hands and do not require the proxy to be a member of the company. Most articles of association, however, give a vote on a show of hands only to a member present in person.

With reference to the statutory majority required for a special or an extraordinary resolution, what is the effect of an article which requires a larger majority than that which is required by the Act? In *Ayre* v. *Skelsey's Adamant Cement Company Limited*, 20 T.L.R. 587; 21 T.L.R. 464, it was provided by the company's articles of association that (*inter alia*) the articles should not be altered or the company's capital increased or reduced except by a resolution passed by a majority of the members of the company holding not less than four-fifths of the capital of the company for the time being. Kekewich, J., held that this article was invalid in so far as it provided for the doing of things in a way different from that prescribed by law. "These companies are creatures of statute with statutory powers and subject to statutory restrictions and any regulations which attempt to evade the provisions of the statute must be invalid. Therefore, if there is in the articles of a company a regulation that the capital of the company shall not be increased except by a certain majority, and the statute provides that the capital may be increased in a different way, then the statute prevails and no effect can be given to the article." The Court of Appeal, in upholding Kekewich, J.'s decision on the facts of the case, expressed no opinion on this point, but the learned judge's view is adopted by the text-books.

Turning now to the question of the powers of a majority of directors at a board meeting. Very rarely can any difficulty arise on this point because the articles of association almost invariably provide that questions arising at a meeting of directors shall be decided by a majority of votes. But in the absence of such a provision it would appear that the directors could not act by a majority but only if unanimous. In *Perrott & Perrott Limited* v. *Stephenson* [1934] Ch. 171, Bennett, J., held that the rule of corporation law that when a duty is delegated to a body of persons those persons can act

by a majority did not apply to the articles of association of a company incorporated under the Companies Act. The question there arose on the construction of an article empowering governing directors to appoint and remove additional directors and to determine their powers and duties. The article in question concluded with these words: "In all questions arising the opinion of the governing director or directors shall prevail." It was held that the powers conferred on the governing directors were to be exercised by all of them.

A majority of a class of shareholders is commonly empowered by the articles to consent to a modification of the rights attached to the class of shares. Under cl. 3 of Table A, 1929, the consent in writing of the holders of three-fourths of the issued shares of the particular class or the sanction of an extraordinary resolution of a separate general meeting of the class of shareholders will suffice to enable the company to vary the rights attached to the shares (subject, of course, to the right of the appropriate minority to apply to the court under s. 61 of the Act). Similarly, it is very common for a specified majority of debenture-holders to be given the power to sanction modifications of the rights of the debenture-holders as a whole—usually by a resolution passed at a meeting of the holders, or alternatively by a consent in writing. Without such a power nothing can be done (except with the sanction of the court under s. 153) against the wish of a minority however small, with the consequence that an arrangement which the majority of debenture-holders consider advisable and beneficial cannot be carried out against an obstructive majority. What exactly the majority can consent to will depend of course upon the terms of the relevant clause, but the consideration of this point is not, I think, material to the present article.

Other classes of persons who can act effectively by a majority are creditors and contributories in the winding up of a company. Rule 132 of the Companies (Winding Up) Rules, 1929, provides as follows:—

> "At a meeting of creditors a resolution shall be deemed to be passed when a majority in number and value of the creditors present personally or by proxy and voting on the resolution have voted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in number and value of the contributories present personally or by proxy, and voting on the resolution, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company."

In *In re Bloxwich Iron & Steel Company* [1894] W.N. 111, at a meeting of creditors in the winding up of the company there voted on the question of the appointment of liquidator eight creditors whose debts amounted to nearly £12,000 in favour of A and nine creditors whose debts amounted to nearly £3,000 in favour of B. There was therefore no "majority in number *and* value" in favour of either A or B. Wright, J., held that effect must be given to the view of the majority in value.

To complete the tale, there is one other class of persons whose powers to act by a majority remain to be considered and those persons are the subscribers to the memorandum of association. It is true that their functions are few in number, the most important to-day being their power under some articles to determine the names of the first directors. Clause 64 of Table A of the 1929 Act enables this to be done by a majority of the subscribers in writing. The corresponding clause of Table A of the 1862 Act provided for the determination of the first directors by the subscribers of the memorandum of association—not in terms by a majority of them or in writing. In *In re London and Southern Counties Freehold Land Company*, 31 Ch. D. 223, a meeting of the subscribers was summoned which was attended by two of them only and they proceeded to appoint a director. The notice of the meeting did not specify the nature of the business intended to be transacted, and Chitty, J., held that in the circumstances the appointment was invalid; for there must be a majority of the subscribers to determine who are to be the directors of the company. No difficulty is likely to arise where the article is in the form of cl. 64 of the 1929 Table A; but the decision in *In re Great Northern Salt and Chemical Works; ex parte Kennedy*, 44 Ch. D. 472, may perhaps be noted. There it was held that under the old form of article an appointment in writing signed by all the subscribers to the company's memorandum of association, who did not, however, meet together for the purpose, was an effective appointment of directors. The modern form of article, it will be observed, provides for the determination of the first directors to be in writing.

A Conveyancer's Diary.

The Reserve Price—Vendor's Right to Bid.

I do not know whether it is generally realised what the vendor's position with regard to bidding at a sale by auction is. No doubt the rule of law is that once a vendor offers property for sale by public auction, it must be sold to the highest bidder and the vendor, whether himself or by an agent, is not entitled to make any bid.

The Court of Equity at one time recognised that this was a somewhat harsh rule. It might happen that property which was put up for sale would be knocked down at a price far below its market value unless the vendor himself or someone on his behalf was able to keep the bidding going. Consequently the Courts of Equity allowed a vendor to bid by himself or by an agent (usually called a puffer) in the absence of any holding out by the vendor that there would be no such bidding and that there would be no reserve price (see *Robinson* v. *Wall* (1847), 2 Ch. 372; *Woodward* v. *Miller* (1845), 2 Coll. C.R. 279, 283).

That rule of equity, however, was definitely put an end to by the Sale of Land by Auction Act, 1867, which enacted that the rule of law on this subject should also apply in equity and that on any sale by public auction the particulars or conditions of sale shall state whether the sale is without reserve or not, or whether a right to bid is reserved, and that a vendor may not bid by himself or an agent where the sale is without reserve and that a vendor or any person on his behalf may bid where the right to do so is expressly reserved.

It seems clear that the Act does not enable a vendor to employ several persons to bid on his behalf and so run up the price. The employment of one agent only is authorised; nor is it sufficient to state that there will be a reserve price to allow of the vendor or his agent making a bid. If it is desired that there shall be a right to bid, it must be expressly so stated in the particulars or conditions of sale (see *Gilliat* v. *Gilliat* (1869), L.R. 9, Eq. 60).

Where the conditions of sale reserve a right to bid, without reserve, the conditions must be strictly observed. For example, where the right to bid once is reserved to the vendor he may not bid more than once by himself or his agent, and that is so although the bids may not exceed the reserve price (*Parfitt* v. *Jepson* (1877), 46 L.J., Q.B. 529).

Under the usual conditions of sale now adopted it is provided that there will be a reserve price and that the vendor reserves the right to bid by himself or his agent. It is quite clear, I think, that under such a condition the vendor may bid himself or by an agent up to the reserve price and, I think, may bid (up to that price) as many times as he pleases. Beyond the reserve price he may not go (see *Notley* v. *Salmon* [1853] 1 W.N. 240; *Heatly* v. *Newton* (1881), 19 Ch.D. 326).

It might be thought that a vendor would not be likely to bid, or authorise anyone to bid for him, beyond the reserve price. It has been known to happen, however, that when the

bidding is brisk a vendor may think that it will pay him to keep it going beyond the reserve which, before the auction, he had been willing to accept. That he may not do.

It is, of course, possible for a vendor to provide in the conditions of sale that, not only will there be a reserve price, but that he or his agent shall be at liberty to bid even beyond that price. I actually saw such a condition once. The circumstances were certainly peculiar and, as might be expected, no member of the public was found to bid, but the bidding was brisk enough amongst members of the vendor's family, several of whom were anxious to buy the property. So far as I recollect the purchaser had reason to repent of his bargain and tried without avail to repudiate it. In the general case, it is obvious that no one is going to bid against a vendor who has expressly reserved the right to bid beyond the reserve price.

Of course, under a condition that "there will be a reserve price and the vendor or his agent shall be at liberty to bid," the vendor may not bid beyond the reserve. In The Law Society's conditions of sale this is made quite clear. Generally an auctioneer, acting as agent for a vendor, will bid up to or nearly up to the reserve price, and that he may do; but he must not go beyond the reserve.

It is frequently (generally, I think) provided in conditions of sale that no bidding shall be retracted. In The Law Society's conditions of sale there is a provision to that effect. I hardly think that such a condition is binding. A bid made at a sale is in effect an offer to purchase at the price bid. The auctioneer may accept the bid, but that does not amount to an acceptance of the offer to purchase, and until the auctioneer does that by knocking the property down there would not seem to be any acceptance, and consequently the bid may be withdrawn until then.

Although, of course, a purchaser will not know what the reserve price is, yet, if a reserve be fixed and the auctioneer should knock the property down for less and sign a contract on behalf of the vendor for sale at that price, the contract will not be binding upon the vendor (see *McManus* v. *Fortescue* [1907] 2 K.B. 1). It may be, however, that the auctioneer would be liable in such a case for breach of warranty of authority, and it was so held where a reserve price had been fixed and the auctioneer advertised the property for sale without reserve and contracted to sell for less than the reserve price (see *Warlow* v. *Harrison* (1859), 1 E. & E. 309). It seems, however, that it would be otherwise if the identity of the vendor were disclosed (*Mainprice* v. *Westley* (1865), 6 B. & S. 420).

Landlord and Tenant Notebook.

The Scope of L.T.A., 1927, s. 18 (1).

From time to time reference has been made in the "Notebook" to conveyancing devices which appear to be aimed at defeating the object of L.T.A., s. 18 (1), and I propose in this article to discuss *seriatim* such as have come under my notice.

It is common knowledge that the enactment was passed to put an end to what was considered the bad law illustrated, if not made, by the hard cases of *Rawlings* v. *Morgan* (1865), 18 C.B. (N.S.) 776, and *Inderwick* v. *Leech* (1884), 1 T.L.R. 484. In those cases landlords recovered substantial damages for dilapidations to properties which they never intended to repair. So by this sub-section Parliament enacted:—

> "Damages for a breach of a covenant or agreement to keep or put premises in repair during the currency of a lease, or to leave or put premises in repair at the termination of a lease, whether such covenant or agreement is expressed or implied, and whether general or specific, shall in no case exceed the amount (if any) by which the value of the reversion (whether immediate or not) in the premises is diminished owing to the breach of such covenant or agreement as aforesaid; and in particular no damage shall be recovered for a breach of any such covenant or agreement to leave or put premises in repair at the termination of a lease, if it is shown that the premises, in whatever state of repair they might be, would at or shortly after the termination of the tenancy have been or be pulled down, or such structural alterations made therein as would render valueless the repairs covered by the covenant or agreement."

It is no longer a point of honour with members of the conveyancing profession to drive 6 h.p. vehicles through the products of their brethren the Parliamentary draftsmen, and in this case the latter have undoubtedly anticipated a number of possible evasions and arguments. The word "or" occurs thirteen times in the sub-section; on six occasions it is in connection with different apprehended attempts to evade, and on four other occasions with four of the attempts already so dealt with.

And, indeed, none of the devices and suggested devices with which I have met can be said to be guaranteed entirely to defeat the object of the sub-section in any circumstances; say, to put the landlord in as happy a position as were those in the two cases mentioned in my first paragraph.

Probably the most effective device is that of the returnable deposit or premium, a form of which (but one which could be improved) was discussed in my article of the 22nd February last (80 Sol. J. 140). The lease virtually becomes a bond under which the tenant forfeits his right to a sum of money if he fails to keep the premises in repair. It is difficult to see how such a provision is affected by L.T.A., 1927, s. 18 (1), even if the premises are to be pulled down immediately the lease expires. But the practical obstacle is that though, as readers must be aware, it is often a thankless task to try to dissuade an intending tenant who or whose wife has taken a fancy to a place from signing any document which will give him possession, payment of such a sum as would cover dilapidations might act as a deterrent.

The provision illustrated in *Plummer* v. *Ramsey* [1934] W.N. 42, if theoretically less sound, is a more practical proposition. By this the tenant enters into alternative covenants. At the landlord's option, he is either to pay damages for failure to deliver up in good repair or to pay the landlord a specified sum of money. A landlord proposing to rebuild may thus obtain a contribution towards the cost. But the amount is limited to what the tenant has been induced to agree to, so that the Act has not been entirely unsuccessful.

Thirdly, there is the proviso by which the tenant agrees to pay a stated sum "in lieu of dilapidations." This is not really called a device introduced to evade L.T.A., 1927, as it was in vogue long before the statute was passed. The effect of the Act was discussed at length in the "Notebook" of the 8th July, 1933 (77 Sol. J. 479), and I was then and still am of opinion that in such circumstances as are visualised by s. 18 (1), the tenant would have a good defence to a claim for the specified sum in lieu of damages for failure to put or leave the premises in repair.

More recently, it has been suggested to me that a covenant to paint in the last year was or might be considered outside the scope of the sub-section. The imaginative will at once perceive that if this proposition were upheld a little hard work by a draftsman would soon make the enactment a dead letter. With the help of an old schedule of dilapidations—the most formidable he could find—he would replace the covenant to repair by a series of covenants enumerating the processes and replacements which experience shows may be called for by a repairing covenant, specifying by position and not merely by description the various parts and articles to be subjected thereto. The fallacy, of course, lies in the assumption that the expressions "keep in repair," "put in repair," and "leave in repair" connote only covenants which use

those words. The sub-section itself is alive to the distinction between general and specific covenants; probably what was visualised was the covenant to repair on notice rather than the covenant to repair a specific part or in a specific way; but, to take the example of painting, not only do many authorities recognise a duty to paint as part of a duty to repair (see the "Notebook" of 11th May, 1935: 79 SOL. J. 336). but statute law itself speaks of "decorative repair" (L.P.A., 1925, s. 147).

Our County Court Letter.

CONCEALED TRAPS.

IN the recent case of *Wardle* v. *Meredith*, at Nottingham County Court, the plaintiff was an outside machinist and had called on a third party for some work, at a factory owned by the defendant. The stairs were unlighted, had no covering or handrail, and the treads were so worn that knots stood out from the wooden steps. The result was that the plaintiff caught her heel and fell, after which a notice was exhibited, viz.: "Be careful, these stairs are dangerous." The defence was a denial of negligence, it being also alleged that the plaintiff was hurrying to meet her husband, and the fall was due to the heel of her shoe coming off. After a view, His Honour Judge Hildyard, K.C., held that the accident was not due to a concealed trap. Judgment was therefore given for the defendant, with costs. Compare *Huggett* v. *Miers* [1908] 2 K.B. 278, and *Dunster* v. *Hollis* [1918] 2 K.B. 795.

ELECTRIC SIGNS ON BUILDINGS.

IN a recent case, at Birmingham County Court (*Silver* v. *Austin Ray Ltd.*), the claim was for £10 damages and an injunction in respect of the obstruction of the access of light to the windows of an office, which was over the shop of the defendant landlords. The latter were modistes, and had erected a wire frame, outlining a Neon light in the shape of the figure of a woman. The plaintiff had suffered from the obstruction since October, but the defendants denied that the amount of tubing could in any way interfere with the proper use of the plaintiff's office. His Honour Judge Ruegg, K.C., held that every tenant had the right—in the absence of agreement—to say that his wall should not be invaded by electric lights, even if erected by his own landlord. Still less could the tenant be required to tolerate signs erected by another tenant. Each tenant had rights not only over the inside, but also over the outside, of the walls of the premises let to him. The plaintiff therefore had the right to remove the sign, or to call upon the landlord to do so. No injunction was granted, however, in view of the impending expiration of the plaintiff's tenancy and damages were assessed (by consent) at £1. Judgment was given accordingly, with costs. Compare the Public Health Acts Amendment Act, 1907, s. 91 (with regard to sky-signs) and the Public Health Act, 1925, s. 24, with regard to projections against or in front of houses or buildings.

LOSS OF LUGGAGE AT HOLIDAY CAMP.

IN *Parkinson* v. *Grainger*, recently heard at Bridlington County Court, the claim was for £9 9s., as the value of luggage. The latter had been sent by rail on a Saturday to the defendant's holiday camp, where it was signed for. The plaintiff arrived the next day, but the luggage had then disappeared, and was never recovered. The defendant contended that he had no contract with, and was under no duty to, the plaintiff. His Honour Judge Sir Reginald Mitchell Banks, K.C., held that there was no liability analogous to that of a boarding-house keeper. The plaintiff had not written to say he was arriving, and the defendant was not bound to receive him. Although the defendant's wife had signed for the luggage, this did not create any liability for its subsequent loss. Judgment was given for the defendant, with costs.

THE LANDLORD AND TENANT ACT, 1927.

IN the recent case of *Maud-Taylor* v. *Hill-Snook*, at Cardiff County Court, the claim was for £2,000 as compensation for loss of goodwill of premises in Albany Road. The plaintiff's case was that, when the premises were first rented, the district was residential. A shop-front was subsequently added, and for years a butcher's business was successfully carried on. The rent was raised, but difficulties arose out of a proposal for a further increase to £250, and notice to quit was given to the previous owner, viz., the plaintiff's brother. The latter had successfully pleaded the Rent Acts, but on his death he had assigned his right of action for compensation to the plaintiff. The ground of the claim was that the value of the premises had been increased by the tenant's success in business. The defendant admitted the letting at a higher rental, but contended there was no evidence in support of the claim. His Honour Judge Thomas gave judgment for the defendant, with costs.

Reviews.

The Restriction of Ribbon Development Act, 1935. By WM. MARSHALL FREEMAN, of the Middle Temple, Barrister-at-Law, Recorder of Stamford. 1936. Demy 8vo. pp. xvi and (with Index) 128. London, Liverpool, Birmingham and Glasgow: The Solicitors' Law Stationery Society, Ltd. 8s. 6d. net.

The production of a book dealing exclusively with the Restriction of Ribbon Development Act is opportune and the author is to be congratulated on the manner in which he has carried out his task. The main features of the Act are indicated shortly, but satisfactorily, in the course of an eight-page introduction. Having regard to the fact that the statute is new, the annotations which accompany the text are as full as can be expected, and helpful. A feature which should enable the reader to appreciate the subject without recourse to other volumes is the setting out in an appendix of the various statutory provisions referred to in the text of the Act. A memorandum and a circular on the Act issued by the Ministry of Transport last August are printed with the book, while the scope of the Act in light of the definition of "road" in s. 24 as "a highway repairable by the inhabitants at large," etc., is indicated in the course of a note on the subject which forms a fourth appendix. There is a good index.

Stone's Justices' Manual, 1936. Sixty-eighth Edition. By F. B. DINGLE, Solicitor, clerk to the West Riding Justices. Demy 8vo. pp. ccxcviii and (with Index) 2,474. London: Butterworth & Co. (Publishers) Ltd.; Shaw & Sons, Ltd. 37s. 6d. net. Thin paper, 5s. extra.

The most important of the new statutes incorporated in the 1936 edition of this well-known work is the Money Payments (Justices' Procedure) Act, 1935. Amongst the 110 new cases cited are cases dealing with the keeping of the peace and the powers of the police as regards meetings. This is an invaluable book of reference and a veritable mine of information. It has an excellent index and there is an appendix of common forms which will be found of great use to practitioners.

Books Received.

A Digest of Cases decided in the Sheriff Courts of Scotland, 1925–1934. Compiled by C. DE B. MURRAY, Advocate. 1936. Royal 8vo. pp. 187. Edinburgh and Glasgow: William Hodge & Co. Ltd. 21s. net.

Local Government in Scotland. By Sir WILLIAM EDWARD WHYTE, Solicitor. 1936. Demy 8vo. pp. xvi and (with Index) 785. London, Edinburgh and Glasgow: William Hodge & Co. Ltd. 25s. net.

To-day and Yesterday.

Legal Calendar.

16 March.—Lord Eldin, besides being one of the greatest of Scottish judges, was a keen and discriminating collector of paintings, engravings and drawings. After his death, therefore, the sale at his Edinburgh house in Picardy-place attracted very great crowds. On the 16th March, 1833, the bidding for a Teniers, one of his most prized possessions, had just reached sixty guineas when a crash was heard, followed by shrieks and screams, and a cloud of dust; part of a floor packed with visitors, had collapsed, precipitating about a hundred ladies and gentlemen into the room beneath amidst a mess of broken joists, plaster and furniture.

17 March.—On the 17th March, St. Patrick's Day, 1898, John Ball, formerly Lord Chancellor of Ireland, died at Dundrum. The Irish Seals had been in his care from 1875 to 1880, and during that time he had earned a high reputation by the legal learning, the powerful reasoning and the literary form of his judgments. After his retirement he withdrew to a great extent from public life, devoting himself to history and letters.

18 March.—On the 18th March, 1639, Sir Dudley Digges, Master of the Rolls, died after three years' tenure of office.

19 March.—Sir John Richardson died in London at his house in Bedford-square on the 19th March, 1841, more than sixteen years after his retirement from the Common Pleas, forced upon him by ill-health, when a too-brief term of judicial office had just allowed him to give proof of a very high capacity. He spent a great deal of his later life in Malta, where his activities alternated between editing "The Harlequin or Anglo-Maltese Miscellany" and drafting a code of laws for the island. He was "a thoroughly instructed lawyer, an accomplished scholar and a man of the soundest judgment."

20 March.—On the 20th March, 1835, Norman Welch, a weigher in the Liverpool Custom House, was tried at Lancaster for the murder of William Southgate, a surveyor of warehouses there. For two years Welch had nursed a grudge against his superior, blaming him for causing him to be reduced to an inferior situation. At last, he had bought a pistol and shot him dead in the Custom House yard. Insanity was the only possible defence, and, this failing, he was found guilty and sentenced to death.

21 March.—On the 21st March, 1816, Thomas Fenton and John Fenton were tried for the murder of Major Hillas, whose death had followed a duel with pistols. Fletcher, J., thus concluded his summing up at the Sligo Assizes: "Gentlemen, it's my business to lay down the law to you and I will. The law says the killing of a man in a duel is murder; therefore, in the discharge of my duty, I tell you so. But I tell you at the same time that a *fairer* duel than this I never heard of in the whole course of my life." The verdict was, of course, an acquittal.

22 March.—On the 22nd March, 1850, Robert Bird and Sarah Bird were tried at the Exeter Assizes for the murder of their servant girl. The poor child was good, clean and industrious when she went to them from the workhouse. After a long course of beating, starvation and ill-usage, which left her a mass of bruises and abscesses, she died; an injury to her head being the immediate cause of death. An inconclusive summing-up by Talfourd, J., was followed by an acquittal. There was, of course, a general outcry of indignation, and at the following assizes the prisoners were again indicted for assault and convicted. A plea of "autrefois acquit" had been raised and the case was argued in the Court of Crown Cases Reserved. Fifteen judges heard the appeal, and so nice were the points of law involved that eight were for upholding and six for quashing the conviction.

The Week's Personality.

Here is an account of the character of Sir Dudley Digges, M.R.: "His Understanding few could equal, his Virtues fewer would. He was a pious Man, a careful Father, a loving Husband, a fatherly Brother, a courteous Neighbour, a merciful Landlord, a liberal Master, a noble Friend. After much experience gained by Travel, and an exact survey of the Laws and People of foreign Kingdoms, he did enable himself thereby for the Service of his Country, but observing too many to justle for place, and cross the public Interest (if not joyned with their public gain), hindring the motion of the great Body of the Commonwealth, desisted, and was satisfied with the Conscience of Merit, knowing good Men only can deserve Honours, tho' the worse attain them. His noble Soul could not stoop to ambition . . ." It then tells how "that most knowing of Princes," James I, gave him diplomatic employment and how later he became Master of the Rolls. "This did crown his former actions, and tho' it would not increase his integrity, yet it made him more perspicuous, and whom his acquaintances before, now the Kingdom honoured. If the example of his justice had powerful influence on all Magistrates, the people who are governed would be happy on Earth, and the Rulers in Heaven with him, who counted it an unworthy thing to be tempted to vice, by the reward of virtue."

A Fresh Start.

At this stage in his career it was very brave of Sir Patrick Hastings to return to examination papers, like Ignatius Loyola leaving a military life to learn Latin among the school boys. Nor were the South African examiners in Roman-Dutch law easily satisfied, for he had to make a second attempt. Legal history, I think, has but one parallel for such a fresh start, the case of Judah Benjamin, driven, by the collapse of the South in the American Civil War, to seek a new career in England. A leader of the Bar, Attorney-General for the Southern States, a man who had refused a Supreme Court judgeship, he found himself a fugitive, fleeing as well as his corpulency would allow by wagon and on horseback to reach the coast of Florida. A leaky boat took him to the Bahamas, but he still had to suffer shipwreck and fire at sea before he landed almost penniless in England. He became a student at Lincoln's Inn, but men like Sir Fitzroy Kelly, Vice-Chancellor Wood and Lord Justice Turner managed to get the usual three years of dinner eating remitted, so that he was called in six months. Such was the second beginning of the great Benjamin who wrote the classic on Sale of Goods.

Matrimonial Reflections.

A recent book of memoirs contains an improvement on an old legal anecdote in the form of a story of a retired Colonial official married to the odious daughter of a financier. One day a footman came to give notice. "Aren't you comfortable?" he asked. "Yes, thank you, Sir Henry." "Want me to raise your wages?" "No, thank you, Sir Henry." "Then what the devil is it?" "If you please, Sir Henry, we can't stand her ladyship." "But look how long I've stood her." "Yes, Sir Henry, but you're obliged to and we ain't." That is a distinct improvement on the tale of that grim old Scottish judge Lord Braxfield, who, when his butler gave notice in similar circumstances, said: "Lord, ye've little to complain of; ye may be thankful ye're no married to her." His matrimonial sentiments were expressed on another occasion when a brother judge sent a note to the Lord President saying he was unable to attend court. "What excuse can a stout fellow like that hae?" said Lord Braxfield. "My lord, he has lost his wife," replied the President. "Lost his wife!" exclaimed Braxfield. "That is a good excuse truly! I wish we had a' the same."

Notes of Cases.

House of Lords.

Railway Assessment Authority *v.* Southern Railway Co.; London County Council and Others *v.* The Same.

Lord Hailsham, L.C., Lord Thankerton, Lord Russell of Killowen, Lord Maugham and Lord Roche.
24th January, 1936.

Railway Rating—Freight Transport Hereditaments—Method of Assessment Before 1930—"Contractor's Basis"—"Profits Basis"—Change of Method since 1930—Railways (Valuation for Rating) Act, 1930 (20 & 21 Geo. 5, c. 24), s. 4 (1) (*b*), (2).

On the 6th February, 1935, the Railway and Canal Commission, on an appeal by the Southern Railway Co. against a determination of the appellant rating authority that the net annual value of the railway as a whole was £2,180,000 for rating purposes, held that £1,077,131 was the right sum. The London County Council and other local authorities interested to support the decision of the rating authority now appealed, and the rating authority themselves appealed in order to obtain guidance in performing their duties under the Railways (Valuation for Rating) Act, 1930, by which they were created. Before the Act of 1930, the method of ascertaining the value of property, the occupiers of which were liable to contribute to poor relief in the parish, was prescribed by the Parochial Assessments Act, 1836, and subsequent legal decisions adapted that method for the assessment of public utility companies like railways. The new method divided an undertaking into portions directly productive of profit, e.g., the permanent way, and portions indirectly productive, such as stations. Portions of the former kind were assessed upon what was known as the "profits basis"; portions of the latter kind were assessed on the "contractor's basis."

The Lord Chancellor, with whose judgment the other noble and learned lords concurred, said that the language of s. 4 (1) (*b*) of the Act of 1930 was almost identical with what had been the law since the Parochial Assessments Act, 1836, and the basis applicable to railway rating for the last hundred years. The only substantial difference from the old system was that the annual value should be ascertained as a whole, and should then be apportioned between the different parishes. The new method also did away with the necessity of drawing a distinction between directly and indirectly productive parts, and of calculating the rateable value of the indirectly productive parts of the undertaking, in each parish, upon the "contractor's basis." But what had to be ascertained still remained the rent at which the hereditaments might reasonably be expected to let from year to year on the terms set out in the Act. The appellants then contended, basing their contention on sub-s. (2) of s. 4 of the Act of 1930, and particularly on the direction that the estimated rent was to "represent a fair and just division of the net receipts," that the Act had put an end to the old system of calculating the amount of the capital required by a tenant for the working of the undertaking and allowing him a percentage thereon, and that it was now necessary to follow some other method. In particular that the hypothetical landlord was entitled, having regard to the large amount of capital expended by him in creating the undertaking, to some proportion of the net receipts obtained either by a comparison of the landlord's capital and the tenant's capital, or by allowing the rent at which the railway hereditaments might be expected to let as a whole to be influenced and presumably increased by the consideration of the large amount of capital expended in creating the immovable parts of the undertaking. His lordship could see no ground for such conclusion. The only practice from which the rating authority was declared to be at liberty to depart was "in regard to the deduction or allowance to be made in respect of the capital of the tenant." It was beyond question, therefor, that the legislature contemplated that there would be a deduction or allowance in respect of the tenant's capital, and, having regard to the universal practice before the Act of making such a deduction or allowance in the shape of a percentage upon the tenant's capital, it was clear that the section in no way directed the rating authority to depart from that method, and to adopt some other method which was wholly undefined. It was not in dispute that it was essential in some way to exclude the profits earned by the hypothetical tenant's rolling stock, plant and other implements, and no satisfactory means of doing that had been suggested, except by means of a percentage on the capital employed in providing such chattels. His lordship was not, however, prepared to say that there were no circumstances in which the profits basis would be inappropriate, or that in no circumstances could any other method be adopted, but it would need very special circumstances to require the adoption of a different method, and no such circumstances were to be found in the present case. This method was the recognised one, and one which the rating authority were justified in adopting, as they had done in the present case. The authority had applied the correct method. They had not misapplied it, having regard to the terms of s. 4 (2), and the appeal must be dismissed.

Counsel: *Sir William Jowitt*, K.C., *Sir Stafford Cripps*, K.C., and *Erskine Simes*, for the Railway Assessment Authority; *D. N. Pritt*, K.C., *Sydney Turner*, K.C., and *Michael Rowe*, for the County Valuation Committee of Middlesex, the Corporation of Croydon and the Corporation of Brighton; *Tyldesley Jones*, K.C., *Walter Monckton*, K.C., *Trustram Eve*, K.C., and *Alfred Tylor*, for the Southern Railway.

Solicitors: *Torr & Co.* and *Sharpe, Pritchard & Co.*, for the appellants; *William Bishop* for the Southern Railway.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Court of Appeal.

In re Williams; Williams *v.* Templeton.

Lord Wright, M.R., Romer and Greene, L.JJ.
5th February, 1936.

Will—Construction—Fund to be Set Aside—Annuity "Without Deduction of Income Tax"—Whether Gross or Net.

Appeal from a decision of Luxmoore, J.

A testator, having devised all his real and personal estate to trustees, directed them to set aside out of his residuary trust estate "such proportion thereof as shall be sufficient to provide an income of £1,000 per annum (without deduction of income tax)" and to "pay such income" to his wife during her life. Luxmoore, J., held that the words "without deduction of income tax" were the converse of the words "with deduction of income tax," and that the sum to be set aside was a sum which would produce a gross sum of £1,000 before any income tax was deducted from it. The widow appealed.

Lord Wright, M.R., allowing the appeal, said that the words indicated a clear net sum, and that no income tax was to be deducted from it. It was to be the income of the widow available out of certain property, a certain proportion of which had to be set aside to provide it. There was no ground for giving the words any other meaning than the natural one.

Romer and Greene, L.JJ., agreed.

Counsel: *Topham*, K.C., and *J. L. Stone*, for the appellant; *R. W. Jennings*, for the trustees; *Vaisey*, K.C., and *Elverston*, for the other respondents.

Solicitors: *Emmet & Co.*; *Hall, Sich & Jasper*; *Soames, Edwards & Jones.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Tynedale Steam Shipping Co. Ltd. *v.* Anglo-Soviet Shipping Co. Ltd.

Lord Roche, Scott, L.J., and Eve, J.
28th January and 2nd March, 1936.

Shipping—Charter-party—Accident to Cargo—Damage to Foremast—Ship Partially Prevented from Unloading—Loss of Time—Cesser of Hire.

Appeal from a decision of Goddard, J. (79 Sol. J. 523).

By a charter-party dated the 4th May, 1934, in the form of the Baltic and White Sea Conference Uniform Time Charter, 1912, as revised in 1920, the Anglo-Soviet Company chartered a steamer from the Tynedale Company. By cl. 2 the owners were to maintain the ship in a thoroughly efficient state. By cl. 3 the charterers were to pay for loading and unloading and incidental expenses, but the steamer was to be maintained with winches and tackle by the owners. By cl. 10, in the event of any measures taken to keep the ship efficient or to repair hull or machinery, such measures preventing the working of the ship and lasting more than twenty-four hours consecutively, the hire was to cease for the whole period as from the beginning, but if the ship were driven into port or anchorage by stress of weather, or in case of accident to cargo causing detention to the steamer, time thus lost and expenses incurred were to be for the charterers' account, even if caused through the fault of the owners' servants. By cl. 12 the owners were only to be responsible for delay or damage to goods if it was caused by want of due diligence on the part of the owners or their manager in making the steamer seaworthy or any personal act, omission or default by the owners or their manager, and they were not to be responsible in any other case for damage or delay, even if caused by the default of their servants. The loading was completed on the 4th September. The cargo was properly stowed and securely lashed and the ship was properly navigated. She left Archangel for Liverpool on the 5th, with a cargo of timber. On the 17th, as a result of heavy weather, the foredeck cargo and foremast fell over, and later, the starboard foredeck cargo fell overside. On the same day the ship berthed in a temporary berth, and on the 18th, cutting away the foremast and discharging the cargo by means of shore cranes was begun. On the 19th, discharging continued and the mast was put ashore. On the 20th, the ship having been moved to the dock for which she was originally intended, discharge of the after end of the ship began by means of the ship's winches. Discharge by this means at the fore end was impossible because the foremast was missing. On the 21st, floating derricks were hired for discharging the fore end. During this process, discharge of the after end had to cease. The total time taken to discharge the ship exceeded the normal by six days two hours, the normal time being eight days. If the ship had been ordered to a discharging berth with shore cranes, the discharging could have been completed within eight days, although at extra expense. The question arose (1) whether the charterers were liable for hire of the ship during the time of discharge, and (2) whether they or the owners were liable for the additional expenses of discharge. Goddard, J., gave judgment for the charterers. The owners appealed.

Lord Roche, in giving judgment, said that the case came to the Court of Appeal under s. 9 (1) (*a*) of the Arbitration Act, 1934. As to the second question, the owners' undertaking to "maintain" was not an absolute warranty that they would maintain the ship in an efficient state whatever perils she might meet, but an engagement that in the event of accidents, prompt and reasonable steps would be taken to put things right: *Gjertsen* v. *Turnbull*, 45 Scot. L.R. 916. The owners had committed no breach of this obligation. Moreover, his lordship did not accept the argument that the agency clause in the charter-party made the owners liable to pay for the additional machinery which the charterers had caused to be hired. It had a more limited meaning. The stipulation that the charterers' agents were the agents for the ship meant that they were agents with regard to customs and matters of that sort. The owners were not liable for the hire of this machinery, and on this point the appeal must be allowed. As to the first question, the reference to "preventing" should not be read as complete prevention and not merely interference. This case could not be distinguished from *Hogarth* v. *Miller* [1891] A.C. 48, at pp. 53–4, where the word used was "stopped." "Stopped" could not be distinguished from "prevented." On this point, the appeal should be dismissed, the charterers not being liable for the hire of the ship during the time occupied in discharge. But this must not be taken to decide whether, if in fact hire had been paid in advance, the charterers could recover it or not. Further, the appellants' argument that there should be an assessment of the amount of time lost by reason of the inefficiency and that for that net loss of time the hire should be deemed to cease was contrary to cl. 10: see *Vogemann* v. *Zanzibar Steam Shipping Co.*, 6 Comm. Cas. 257; 7 Comm. Cas. 254.

Scott, L.J., and Eve, J., agreed.

Counsel: *Le Quesne*, K.C., and *C. T. Miller*; *Miller*, K.C., *Hallett*, K.C., and *Stephen Chapman*.

Solicitors: *Sinclair, Roche & Temperley*, agents for *Botterell, Roche & Temperley*, of Newcastle-on-Tyne: *Pettite, Kennedy, Morgan & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

In re a Taxation of Costs: *In re* a Solicitor.

Greer, Slesser and Scott, L.JJ. 24th January and 3rd March, 1936.

Costs—Taxation—Counsel's Fees—Not Paid at Commencement of Taxation—Disbursements—Items Relating to Business for which no Retainer Given—Whether One-Sixth Taxed Off—Solicitors Act, 1843 (6 & 7 Vict. c. 73), s. 37—Solicitors Act, 1932 (22 & 23 Geo. 5, c. 37), s. 66—R.S.C., Ord. LXV, r. 27 (29A).

Appeal from a decision of Singleton, J.

A solicitor delivered a bill in respect of work done and disbursements made. It was made on the footing that S. and G. were jointly concerned as clients in all the matters included and addressed to both jointly. On taxation S. contended that certain portions related to G.'s separate business, and that he had given the solicitor no retainer entitling him to treat those items as items for which he had incurred personal liability. He also sought to have certain other items taxed off the bill, including certain disbursements of counsel's fees amounting to £90 which had not been paid at the commencement of the taxation, but had been paid before they were reached in the course of taxation. The bill of costs did not contain any statement that the disbursements to counsel had not been made so as to bring them within the exception of R.S.C., Ord. LXV, r. 27 (29A). Singleton, J., upholding the Taxing Master's decision, held (1) that the £90 should be taxed off; (2) that £317 should be deducted from the bill in respect of the items relating to G.'s separate business, matters with which S. had no concern *quoad* taxation of costs, and that the amount so disallowed had been "taxed off" within the meaning of the Solicitors Act, 1932, s. 66 (5), so as to be reckoned in calculating whether there had been "taxed off" more than one-sixth of the total bill. The result in this case being that more than one-sixth had been "taxed off," the solicitor was ordered to pay the costs of the taxation. The solicitor appealed.

Scott, L.J., in delivering the judgment of the court, said that as regarded the point about counsel's fees, the appellant's contention that the prohibition on the inclusion of unpaid disbursements in a bill of costs contained in Ord. LXV, r. 27 (29A) was inoperative since the passing of the Solicitors Act, 1932, was not well founded. Though it had been framed under the Solicitors Act, 1843, s. 37, repealed by the 1932 Act,

which contained no section equivalent to s. 37, s. 81 (1) of the 1932 Act declared that "fees, charges and expenses" were to be read into the word "costs" wherever it was used in the Act. Thus "costs due to a solicitor" in s. 65 (1) must be read as including disbursements due and there was no change in the law. A "disbursement" charged for counsel's fees must always mean a disbursement actually made, since those fees being in law mere gratuities could not be "due" from the client to the solicitor till actually paid to counsel (see *Sadd* v. *Griffin* [1908] 2 K.B. 510). On this point the appeal must be dismissed. On the other point the appeal should be allowed. Items struck out of a solicitor's bill because the business in question was never included in any retainer given by the client should not be considered for the purpose of estimating the one-sixth "taxing off" (*Mills* v. *Revett*, 1 A. & E. 856; *White* v. *Milner*, 2 H. Bl. 357; *Rigby* v. *Edwards*, 5 Madd. 20, the decision of Leach, V.-C., being subsequently overruled by Lord Eldon, L.C.; "Beames on Costs," 2nd ed., pp. 255-260). "Taxing off" meant a reduction of a bill by a Taxing Master where the business involved was within the retainer and not where the items should never have been in the bill at all.

COUNSEL: *Gillis*; *C. Gallop*.

SOLICITORS: *Percy Bono & Griffith*; *Phillips, Bennett & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Spink (Bournemouth) Ltd. *v.* Spink.

Luxmoore, J. 10th March, 1936.

COMPANY—DIRECTOR AND MANAGER—RESIGNATION AGREEMENT—COVENANT NOT TO CARRY ON BUSINESS WITHIN A CERTAIN RADIUS—AGREEMENT TO SELL SHARES HELD TO REMAINING DIRECTOR—PRICE PAID BY COMPANY'S CHEQUE—WHETHER COVENANT ENFORCEABLE—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 45.

The company was a private company incorporated in 1932 to acquire the business of garage proprietors carried on by J.S. and D.S. who were brothers. Both became permanent directors entitled to hold office as long as they lived and joint managers. Each held shares. In 1934, D.S., the defendant, J.S. and the company entered into a written agreement whereby D.S. agreed to resign his directorship and his position as an employee of the company, in consideration of £100 paid to him by the company, that sum being in full satisfaction of all his claims against the company, particularly in respect of wages, wages in lieu of notice, commissions, director's fees and expenses. By cl. 4 he agreed in consideration of the said sum that he would not for a period of five years carry on or assist in carrying on the business of garage proprietor within ten miles of Bournemouth General Post Office. By cl. 5 he agreed that he would transfer his holding of 325 shares to J.S. in consideration of £250. The shares were duly transferred, the sums of £100 and £250 being paid by cheque drawn on the company's banking account. In February, 1936, D.S. agreed to accept employment in a company carrying on the same business as the plaintiffs in the prohibited radius. The plaintiffs sought an injunction.

LUXMOORE, J., in giving judgment, said that the defendant had argued that the agreement was invalid as being contrary to public policy, because it was in the nature of an agreement between an employer and an employee and was made, not when he was entering into the service of the employer, but on leaving. If this agreement had been entered into at the outset, it could not have been suggested that it was wider than was necessary for the employer's protection. Public policy did not require that a person seeking to be released from his employment could not obtain release and also a payment to himself in consideration of his giving up his service and entering into a proper restrictive covenant. This was a proper covenant and could be enforced. It was also argued that the agreement was unenforceable, because the £250 was paid by the company and not by J.S., such a payment being said to be within the prohibition of s. 45 of the Companies Act, 1929. His lordship did not know the circumstances in which it was paid, but the agreement by J.S. to purchase the shares was perfectly severable from the rest of the agreement. So far as it was an agreement between the two brothers, there was nothing in the section to suggest that the agreement became illegal or unenforceable if the company provided any part of the purchase price consideration. If the company had contravened s. 45 it had simply subjected itself to liability to a fine under sub-s. (3). There must be an injunction.

COUNSEL: *Sir Gerald Hurst*, K.C., and *C. Luxmoore*: *Spens*, K.C., and *H. Buckmaster*.

SOLICITORS: *Clifford-Turner & Co.*; *Peacock & Goddard*, agents for *Luff, Raymond & Williams*, of Wimborne.

[Reported by FRANCIS H. COWPER Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Plunkett and Another *v.* Barclays Bank Ltd.

du Parcq, J. 13th March, 1936.

SOLICITOR—GARNISHEE ORDER SERVED ON BANK—CHEQUE DRAWN ON CLIENT'S ACCOUNT RETURNED MARKED "R.D."—WHETHER MONEY IN A CLIENTS' ACCOUNT A DEBT OWING BY BANK TO SOLICITOR—"REFER TO DRAWER"—WHETHER LIBELLOUS—SOLICITORS ACT, 1933 (23 & 24 Geo. 5, c. 24), s. 8; SOLICITORS' ACCOUNTS RULES, 1935 (S.R. & O. 1934, No. 718, L.18); R.S.C. ORDER XLV.

Action for damages for wrongful dishonouring of two cheques, and for libel.

The plaintiff, Plunkett, was a practising solicitor. In August, 1935, he opened two accounts with the defendant bank, one of which was a clients' account opened in compliance with the Solicitors Act, 1933, and the Solicitors' Accounts Rules, 1935. As neither account was opened in the name of the second plaintiff, it was accepted by counsel that he could not maintain the action. Nothing was paid into the clients' account until the 7th September, when Plunkett paid £48 5s. into it in cash. He had received that money from a client for application in payment of certain debts owing by the client. On the 6th September, Plunkett duly drew a cheque for £48 5s. on the clients' account, and sent it to one, Nichols, who was acting for the person to whom the money was due. On the 9th September an application was made by the plaintiff's former wife for the service of a garnishee order *nisi* on the defendants in respect of debts owing or accruing due from them to the plaintiff, who still owed his former wife certain money. The order was served on the defendants as soon as it was made. Nichols in due course presented the cheque, and the defendants returned it marked "Refer to Drawer." Nichols was, however, paid the £48 5s. on Plunkett's behalf before the dishonoured cheque reached him.

DU PARCQ, J., said that the defence, put shortly, was that the moneys standing to the credit of the clients' account were due from the defendants to the plaintiff, and that service of the garnishee order *nisi* precluded them from paying that debt to the plaintiff. In the circumstances, they said that the only course reasonably open to them was to mark the cheque "Refer to drawer." After careful consideration of the effect of s. 8 of the Solicitors Act, 1933, on the rights and liabilities of the parties, he (his lordship) was of opinion that the section relieved a bank from any obligation to make enquiry about the rights of third persons in respect of a clients' account. That, however, was subject to the important proviso that the bank was not relieved by the Act from any obligation under which it would be apart from the Act. Further, the section did not say that the bank was

to be deemed to be ignorant of facts which were within its knowledge, or that it was to be deemed to be ignorant of the law. He (his lordship) was bound to assume, therefore, that the defendants knew that the £48 5s. was trust money within the meaning of para. (*a*) of r. 3 of the Solicitors' Accounts Rules, 1935, although they did not know and were under no obligation to inquire who had an equitable claim to it. The law and rules of practice relating to the attachment of debts were contained in Ord. XLV of the Rules of the Supreme Court. By virtue of r. 2 it could not be doubted that the defendants were entitled and, indeed, bound to refuse to pay that money to the plaintiff or to his order after service of the garnishee order *nisi*: see *Rogers and Another* v. *Whiteley* [1892] A.C. 118, 8 T.L.R. 418; especially per Lord Halsbury, L.C., at p. 121), and *Galbraith* v. *Grimshaw and Another* [1910] 1 K.B. 339. Order XLV, r. 5, provided for a case where the debt sought to be attached belonged to some third person who had a lien or charge on it. The importance of r. 5 for the present purpose was that it contemplated a case where (as here) the garnishee knew that his creditor (the judgment debtor) was a trustee and that the debt "belonged" to the *cestui que* trust. In such a case there was no doubt that the garnishee was under a duty to inform the Court of the claim of the person beneficially entitled: see *The Leader*, L.R. 2 A. & E. 314. But unless the words of Ord. XLV, r. 1, clearly showed that the garnishee was to treat money due by him to a person as trustee of another as money due not to the trustee but to the *cestui que* trust, he (his lordship) should infer from the language of Ord. XLV, r. 5, that the garnishee was not entitled to pay the debt either to the *cestui que* trust or to the trustee for the benefit of his *cestui que* trust after service of the order *nisi*. The material words of Ord. XLV, r. 1, were, "all debts owing or accruing from such third person to such debtor." He found it impossible to say that money paid into a clients' account kept with a bank in the name of a solicitor was not a debt owing from the banker to the solicitor. It could not be denied that the relation of debtor and creditor subsisted between the bank and the solicitor. The solicitor might at any time draw a cheque on the account, and the bank must honour it. For those reasons he was of opinion that the defendants were right in thinking that the money due from them on the clients' account was a debt due to the plaintiff and that the garnishee order *nisi* bound that debt in their hands. He thought it right to say, however, that apart from the duty of the garnishee to inform the court of the nature of the account, it was the manifest duty of a bank, as the defendants in this case recognised, to inform the customer at once of the service of the order and of the fact that cheques on the account could not be honoured. Further, he thought it would be well that judgment creditors applying for garnishee orders *nisi* should realise that they might incur costs unnecessarily if the order were so drawn as to affect a clients' account. It was always open to the creditor to ask the Court to restrict the terms of the garnishee order *nisi* so that such an account would not be affected by it. He had no right to lay down any rule in the matter, and he did not seek to do so, but the Court might sometimes think it proper in future to call the attention of the judgment creditor to that aspect of the matter when an order was sought against a practising solicitor. There was no reason why the common form of the order should not be modified in a proper case. He had only to add that, in the circumstances of the case, the words "Refer to drawer" were in his opinion no libel. He respectfully adopted the language of Mr. Justice Scrutton in *Flack* v. *L. and S.W. Bank, Ltd.*, 31 T.L.R. 334, at p. 336.

COUNSEL: *Hemmerde*, K.C., and *Neil Lawson*, for the plaintiff; *W. N. Stable*, K.C., and *George Bankes*, for the defendants.

SOLICITORS: *William Mandeville & Co.*; *Powell, Burt and Lamaison.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law].

Van Dusen *v.* **Kritz.**

Goddard, J. 13th and 16th March, 1936.

COPYRIGHT—ARTIST'S DRAWINGS—POSTERS AND SHOWCARDS EXHIBITED BY DEFENDANT WITHOUT KNOWLEDGE THAT THEY INFRINGED COPYRIGHT—WITHDRAWAL OF POSTERS AND SHOWCARDS ONE WEEK AFTER NOTIFICATION BY PLAINTIFF OF INFRINGEMENT—WHETHER ANY CAUSE OF ACTION—COPYRIGHT ACT, 1911 (1 & 2 Geo. 5, c. 46), s. 2 (2).

Action for damages for infringement of copyright.

The plaintiff, a commercial artist, was the author of, and the owner of the copyright in, certain fashion illustrations contained in a brochure entitled "For Men." In 1935, the defendant, a tailor, caused to be exhibited on show-cards in his shop a picture of a man in morning dress, and also, on posters at certain railway stations in London, a picture of a man in evening dress. On the 16th October, 1935, the plaintiff wrote to the defendant complaining that the posters and showcards were imitations of his work and infringed his copyright, and demanded compensation. The defendant proceeded to remove the posters, and, on the 23rd October, wrote to the plaintiff that, although he did not admit that there had been any infringement of the plaintiff's copyright, he would withdraw the posters and show-cards. He contended that the plaintiff had, however, suffered no damage on which to base a claim for compensation, and the plaintiff issued the writ in this action immediately upon receiving the defendant's letter on the 23rd October.

GODDARD, J., said that there was no reason to suppose that the defendant had any knowledge in the first place that the drawing complained of were a copy of anyone's work or an infringement of any copyright. The writ had been issued immediately after receipt by the plaintiff of the defendant's letter of the 23rd October, and the question to be decided was whether at the date of the issue of the writ there had been any infringement of copyright by the defendant. By s. 2 (2) of the Copyright Act, 1911, an offence was committed by any person who by way of trade exhibited any work which to his knowledge infringed copyright. As to the question whether Kritz had ever had knowledge that these drawings infringed the plaintiff's copyright, he (his lordship) thought that Kritz had taken a reasonable time in coming to the conclusion by the 23rd October that, whether or not there was any infringement, he would take no risks. He had had the posters taken down as soon as he had received the plaintiff's letter of the 16th October. The cause of action was exhibiting by way of trade any work which to the defendant's knowledge infringed copyright. The Act seemed to him (his lordship) to aim at deliberate infringements of copyright, at using, or continuing to use, a work which the defendant knew to infringe copyright. A man must have a reasonable opportunity of knowing whether a work infringed copyright or not, if he acted in good faith in the first instance. In this case, the defendant had not delayed matters unduly. He (his lordship) found as a fact that he had no knowledge of the infringement in the first place, and he held that the period until the 23rd October was not an unreasonable one to take to find out. The issue of the writ had therefore been premature, because at that moment no breach of s. 2 (2) of the Act of 1911 had occurred. At one point, he (his lordship) had thought that the posters had been kept up four or five days longer than necessary. But unless the plaintiff could satisfy him that the defendant had knowledge of the infringement before the 23rd October, the latter was not liable in this action, and, although he had notice of the plaintiff's claim on the 16th October, there was no reason to impute to the defendant knowledge before the 23rd of the infringement. There had accordingly, at the time when the writ was issued, been no infringement with knowledge, and the action failed. Had the plaintiff been entitled to succeed, however, the damages must in any event have approached the nominal, and he (his lordship) would have awarded £10.

COUNSEL: *Ryder Richardson*, for the plaintiff; *Kenneth Swan*, K.C., for the defendant.

SOLICITORS: *J. Thompson Halsall; Herbert Oppenheimer, Nathan Vandyk & Mackay.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* Mortimer.

Lord Hewart, C.J., Macnaghten and du Parcq, JJ.
13th January, 1936.

MURDER—EVIDENCE—ACTS BY PRISONER SIMILAR TO THAT CHARGED—EVIDENCE AS TO—WHETHER ADMISSIBLE.

Appeal against conviction.

On the 27th November, 1935, the appellant, Mortimer, was convicted of the murder of a woman named Oakes and sentenced to death by Finlay, J. The case against Mortimer was that at about 9.25 a.m. on the 8th August, 1935, he drove a motor car at Miss Oakes while she was riding a bicycle and knocked her down. Evidence was adduced that at about 6.30 p.m. and 7.15 p.m. respectively, on the 7th August, the appellant, having knocked down two other women cyclists in a similar way, had assaulted them. It was also stated in evidence that on the 8th August he had knocked down another woman cyclist and stolen her bag, and that he had later driven a car directly at police officers who were attempting to stop him. Objection was taken to the admitting of this evidence. The objection was overruled and Mortimer appealed on that ground.

LORD HEWART, C.J., in giving the judgment of the court, said that, the appellant having ultimately admitted that he had driven the car which caused Miss Oakes' death, it was, therefore, of crucial importance to examine the intent with which the appellant had done that which he had done, and accordingly evidence had been offered tending to show that for some reason at this time the appellant had, so to speak, run amok in this way. It had been urged on Mortimer's behalf that this evidence, admitted as it was, went beyond the principle which, as the well-known cases showed, governed the admissibility of evidence of that kind. The rule had been stated often, but never perhaps more clearly than by Lord Herschell in *Makin* v. *Att.-Gen. for New South Wales* [1894] A.C. 57, where at p. 65 he said: "The mere fact that the evidence adduced tends to show the commission of other crime does not render it inadmissible if it be relevant to an issue before the jury, and it may be so relevant if it bears upon the question whether the acts alleged to constitute the crime charged in the indictment were designed or accidental, or to rebut a defence which would otherwise be open to the accused." It appeared to the court that it was of crucial importance to show that what was done in relation to Miss Oakes had been deliberately and intentionally done. If the defence was to be, as indeed it proved to be in one of its aspects, that what was done amounted to no more than manslaughter, it was manifestly fundamental to establish the guilty intent of the prisoner either to kill or, at any rate, to cause grievous bodily harm. It seemed to the court that the evidence admitted was of the very kind which in such a case was proper to be admitted. Undoubtedly, where such evidence was offered, very great responsibility lay upon the judge; and, as was said by Bray, J., in *R.* v. *Bond* [1906] 2 K.B. 389, bearing in mind the strong prejudice that would necessarily be created in the minds of the jury by evidence of this class which showed that the prisoner had been guilty on another occasion of a similar offence, the greatest care ought to be taken to reject such evidence unless it was plainly necessary to prove something which was really in issue. In the opinion of the court this evidence satisfied that test. It was plainly necessary, in order to prove something which was really in issue, namely, the intent with which the prisoner did the act, if he was the person who did it.

COUNSEL: *F. J. Tucker*, K.C. (*D. M. Wilson* with him), for the appellant; *J. G. Trapnell*, K.C., and *L. Dunne*, for the Crown.

SOLICITORS: *The Registrar, Court of Criminal Appeal; Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

Obituary.

SIR ARTHUR GWYNNE-JAMES.

His Honour Sir Arthur Gwynne-James, formerly Judge of County Courts on Circuit 52, from 1900 to 1935, and for forty-one years Recorder of Hereford, died at Bath on Tuesday, 17th March, at the age of eighty. He was educated at Cheltenham and Trinity Hall, Cambridge, and in 1879 he won the Inns of Court Studentship in Civil and International Law. He was called to the Bar by the Middle Temple in 1881, and joined the Oxford Circuit. He was appointed Recorder of Hereford in 1894. In 1900 he was appointed County Court Judge on the Birkenhead Circuit, and later the same year he was transferred to the Bath Circuit. He retired last year. He was created a Knight Bachelor in the Birthday Honours List in June, 1935.

MR. E. D. BERRY.

Mr. Edwin Dennis Berry, solicitor, of Reading, died on Thursday, 12th March, at the age of fifty-seven. Mr. Berry served his articles with Mr. J. Ingram Dawson, of Barnard Castle, and was admitted a solicitor in 1908. He was Clerk to the Easthampstead Rural District Council, and President of the Reading and District Solicitors' Association.

MR. F. G. HYDE.

Mr. Francis Garmston Hyde, solicitor, a partner in the firm of Messrs. Hydes, of Worcester, died in a nursing home on Wednesday, 11th March, in his sixty-first year. Mr. Hyde was admitted a solicitor in 1897, and joined his father, the late Mr. T. G. Hyde, in the firm in 1899.

MR. E. C. LARGE.

Mr. Ernest Charles Large, solicitor, a member of the firm of Messrs. Peacock & Goddard, of 3, South-square, Gray's Inn, died on Saturday, 14th March, at the age of fifty-eight. Mr. Large was admitted a solicitor in 1916.

MR. J. B. MARSTON.

Mr. John Beale Marston, solicitor, of Mold, died at his home at Chester on Tuesday, 3rd March. Mr. Marston served his articles with the late Mr. Thomas Thelwell Kelly, of the firm of Messrs. Kelly, Keene & Roper, of Mold, and was admitted a solicitor in 1921.

MR. P. J. H. ROBINSON.

Mr. Percy James Hall Robinson, solicitor, senior partner in the firm of Messrs. Percy Robinson & Co., of Great Marlborough Street, W., Tooley-street, S.E., and Renfrew-road, S.E., died on Thursday, 12th March, at the age of sixty-three. Mr. Robinson was admitted a solicitor in 1894.

Parliamentary News.

Progress of Bills.

House of Lords.

Bedwellty Urban District Council Bill.
Reported, with Amendments. [17th March.
Brighton Marine Palace and Pier Bill.
Read First Time. [17th March.
Coinage Offences Bill.
Amendments reported. [17th March.
Consolidated Fund (No. 1) Bill.
Read Third Time. [17th March.
Cornwall Electric Power Bill.
Reported, with Amendments. [17th March.
Electricity Supply (Meters) Bill.
Read First Time. [17th March.
Huddersfield Corporation (Trolley Vehicles) Bill.
Read Third Time. [17th March.
Kingston-upon-Hull Corporation Bill.
Reported, with Amendments. [17th March.
Milk (Extension of Temporary Provisions) Bill.
Read Third Time. [17th March.
Ministry of Health Provisional Order (Bedford Joint Hospital District) Bill.
Read Third Time. [18th March.
Ministry of Health Provisional Order (Bury and District Joint Hospital District) Bill.
Read Third Time. [18th March.
Ministry of Health Provisional Order (Chester and Derby) Bill.
Read Third Time. [18th March.
Ministry of Health Provisional Order (Mid-Sussex Joint Hospital District) Bill.
Read Third Time. [18th March.
Ministry of Health Provisional Order (North East Lindsey Joint Hospital District) Bill.
Reported, without Amendment. [18th March.
Ministry of Health Provisional Order (St. Albans Joint Hospital District) Bill.
Reported, without Amendment. [18th March.
Ministry of Health Provisional Order (South Staffordshire Joint Smallpox Hospital District) Bill.
Reported, without Amendment. [18th March.
National Health Insurance Bill.
Read First Time. [17th March.
Nottinghamshire and Derbyshire Traction Bill.
Reported, with Amendments. [17th March.
Old Age Pensions Bill.
Read First Time. [17th March.
Perth Corporation Order Confirmation Bill.
Commons Amendments agreed to. [17th March.
Public Health (London) Bill.
Read First Time. [17th March.
Solicitors Bill.
Reported, without Amendment. [17th March.
South Essex Waterworks Bill.
Read First Time. [17th March.
South Metropolitan Gas Bill.
Reported, with Amendments. [17th March.
Swansea and District Transport Bill.
Reported, with Amendments. [11th March.
Unemployment (Northern Ireland Agreement) Bill.
Reported, without Amendment. [18th March.
Widows,' Orphans' and Old Age Contributory Pensions Bill.
Read First Time. [17th March.

House of Commons.

Brighton Marine Palace and Pier Bill.
Read Third Time. [16th March.
Clubs (Scotland) Bill.
Read First Time. [18th March.
Cotton Spinning Industry Bill.
Reported, with Amendments. [17th March.
Electricity Supply (Meters) Bill.
Read Third Time. [12th March.
Fire Insurance Bill.
Read First Time. [17th March.
Great Orme Tramways Bill.
Read Second Time. [16th March.
Huddersfield Corporation (Trolley Vehicles) Bill.
Read First Time. [17th March.
Imperial Continental Gas Association Bill.
Read Second Time. [16th March.
Inheritance (Family Provision) (No. 1) Bill.
Withdrawn. [16th March.
Midwives Bill.
Read First Time. [18th March.
Road Traffic (Driving Licences) Bill.
Read Second Time. [16th March.
South Essex Waterworks Bill.
Read Third Time. [16th March.
Thornton Cleveleys Improvement Bill.
Reported, with Amendments. [12th March.
Unemployment Insurance (Agriculture) Bill.
Reported, with Amendments. [17th March.
Warkworth Harbour Bill.
Read Third Time. [18th March.

Questions to Ministers.

ADVOCATES AND SOLICITORS (CANDIDATES' CHARGES).

Mr. GALLACHER asked the Lord Advocate what is the cost in fees, stamp duties, and other charges, of becoming an advocate in Scotland and also of becoming a solicitor in Scotland; whether he is aware that these expenses make it impossible for large numbers of educated Scotsmen to become advocates or solicitors; and whether he will take steps by

introducing legislation, or otherwise, to secure that persons desirous of becoming advocates or solicitors shall be able so to do without such expenses?

The LORD ADVOCATE (Mr. T. M. Cooper): The sums payable in respect of admission to the Faculty of Advocates amount in all to some £400, exclusive of payments due in respect of the Widows' Fund. These sums are required partly for payment of stamp duties but mainly for the maintenance of the libraries and premises utilised by members of the Faculty. The cost of becoming a solicitor in Scotland is rather less than £100. This sum is required partly for payment of stamp duties and partly for examination and tuition fees. I am not aware that prospective candidates are deterred from becoming advocates or solicitors in Scotland by the amount of those charges, and, having regard to the purpose to which the money is put, I have no reason to think that it would be practicable to effect any substantial modification in them. [17th March.

COMPANIES ACT, 1929.

Sir J. POWER asked the President of the Board of Trade whether his attention is drawn from time to time to Section 112 (1) and (2) of the Companies Act, 1929; what steps he takes when default is brought to his notice; and what system generally is adopted to ascertain the names of companies who fail to conform to Sub-section (1) of the said section?

Dr. BURGIN: It is the practice of the Registrar of Companies, in the case of public companies, to report to the Board of Trade any default under Section 112 of the Companies Act, 1929, which is disclosed in the annual return required to be made to the Registrar under Section 110. On receipt of information of default from this or any other source, inquiries are addressed to the company and, if no satisfactory answer is received, the question of proceedings is considered. [18th March.

Societies.

The Solicitors' Managing Clerks' Association.

RECENT DECISIONS IN BANKRUPTCY.

At a meeting of this Association held in Middle Temple Hall on 6th March, Mr. Justice CLAUSON took the chair, and Mr. GEORGE F. KINGHAM delivered a lecture entitled "Some Points on Bankruptcy and the Effect of Recent Decisions thereon."

After mentioning the case of *Peat* v. *Gresham Trust Limited* [1934] A.C. 252, in which the House of Lords decided that intention to make a fraudulent preference must be proved by evidence and could not be inferred; and after dealing with the decisions in *Re Godwin* [1935] 1 Ch. 213, and *Re Samuels* [1935] 1 Ch. 341, which laid down the rights of an execution creditor who had received money more than three months before notice of an act of bankruptcy, Mr. Kingham dealt with the effect on the previous law of the Law Reform (Married Women and Tortfeasors) Act, 1935. The new Act, he said, repealed s. 125 of the Bankruptcy Act, 1914. Sub-section (1) of this section provided that every married woman who carried on a trade or business should be subject to the bankruptcy law as if she were a *feme sole*; and sub-s. (2) provided that where a final judgment or order had been obtained against such a married woman it should be available for bankruptcy proceedings against her by a bankruptcy notice as though she were personally bound to pay the judgment debt or sum ordered to be paid. It had long been a subject of complaint that a married woman was not amenable to the bankruptcy law unless she carried on a trade or business, and the 1935 Act was passed, *inter alia*, to make all married women subject to the bankruptcy law, whether they were carrying on a trade or business or not. Accordingly, s. 1 (*d*) enacted that a married woman should be subject to the law relating to bankruptcy and to the enforcement of judgments and orders in all respects as if she were a *feme sole*. Section 4 (1) (*c*), however, provided that nothing in Pt. I of the Act should enable any judgment or order against a married woman in respect of a contract entered into or debt or obligation incurred before the passing of the Act to be enforced in bankruptcy or to be enforced otherwise than against her property.

After the passing of the Act the Registrar had made a receiving order against a married woman who was alleged to have carried on a trade or business. This was denied, but the learned registrar found it as a fact. The debtor appealed (*Re A Debtor, No.* 490 *of* 1935 (1936), 154 L.T.R. 44; 79 SOL. J. 839), and raised the further point that, though in July, 1935, when the receiving order was made, s. 125 of the 1914 Act was unrepealed, yet when the application came before the Court of Appeal that section was repealed and there was no jurisdiction to make the order, because the court must act in accordance with the law existing at the time of the appeal. It was also urged that not only must regard be had to s. 4 (1) (*c*) of the 1935 Act, but that that Act contained no savings. Lord Wright, M.R., said in his judgment that there was no foundation for that contention. Section 4 (1) (*c*) was purely negative and left the enumerated matters to be dealt with by the law as it existed before the Act. Section 38 (2) of the Interpretation Act, 1889, had the effect of saving every liability which attached to a debtor to be adjudicated bankrupt and have a receiving order made against him and all rights of a creditor to claim a receiving order and adjudication in bankruptcy, notwithstanding the repeal of s. 125. This would be so where there was an available act of bankruptcy before the passing of the Act; *a fortiori* in the present case, where the receiving order was made before the Act of 1935 was passed. His lordship said that the meaning of a "right accrued" under s. 38 (2) of the Interpretation Act was illustrated by *Hamilton and Gell* v. *White* [1922] 2 K.B. 422, where it was held that an agricultural tenant acquired a right to compensation as soon as he received notice to quit, though he took no proceedings until after the Agricultural Holdings Act, 1908, was repealed. By serving the bankruptcy notice the creditor had done an act towards availing himself of the right given in the repealed section.

In *Re Joseph Suche & Co., Ltd.* (1875), 1 Ch. D. 48 (continued Mr. Kingham), Sir George Jessel, M.R., had said at p. 50, that when the legislature altered the rights of parties its enactments did not affect pending actions unless they applied to them in express terms. Order 58, r. 4, recognised that, while an appellate court was bound to give effect to remedies provided by enactments passed after the order appealed from had been made by the court of first instance in regard to substantive rights, it must give effect to the same law as that in force at the time of the earlier proceedings. The Interpretation Act laid down that a repeal should not affect any right or obligation created under a repealed enactment, or any remedy in respect of such a right. No contrary intention appeared in the 1935 Act, and under the repealed section of the 1914 Act the right had accrued to the creditor to take proceedings against a married woman carrying on a trade or business. In *Re a Debtor, supra*, the receiving order was made before the passing of the new Act, and the question was whether a creditor who had a judgment against a married woman trader in respect of an obligation incurred before the passing of the new Act could issue a bankruptcy notice founded upon such a judgment. The effect of the Interpretation Act seemed to be that the repeal of s. 125 of the 1914 Act did not affect the creditor's right.

The Law Society's School of Law.

RECEPTION OF PAST AND PRESENT STUDENTS.

The teaching staff of The Law Society's School of Law held a reception of past and present students at the Society's Hall on the 12th March. The first part of the programme consisted of instrumental music and songs, which reached the usual high standard, and the second part contained some clever cartoons and conjuring.

The guest of the evening, Lord Justice GREENE, was introduced in a speech of welcome by Mr. T. H. BISCHOFF, the Chairman of the Legal Education Committee, and addressed the students. His audience were delighted with the racy humour with which he introduced his theme and were deeply moved by the seriousness with which he developed it. He recalled the experience of a colleague who had asked a member of a foreign Bar to defend certain political prisoners abroad, and had been told that the government there would not consent. He suggested that this was a good object-lesson, and asked his hearers to imagine how they would feel if the legal profession of this country were so lacking in independence and courage. They would all, he thought, be going about looking over their shoulders and wondering exactly what was going to happen to them if they had not their present confidence that, whatever accusation was brought against one of them, he would not merely go before an impartial tribunal but be supported by a fearless advocate and a fearless legal profession. Most of the students to whom he was speaking would probably at some time or other feel depressed and be inclined to say that it was a pretty poor business to spend their lives acting for not very laudable people in not very important things. He begged them to remember at such times that they and their fellow-members of the profession were something much greater than that: they were part of the great system of British justice, which was the envy of the world and the safeguard of all British liberties. On their courage and independence much

more depended than the welfare of the particular client who had put his wretched quarrel into his solicitor's hands. Courage and independence were the finest characteristics of the legal profession of England: courage to stand up to the client and give him advice he did not like; courage to stand up to the tribunal, whatever influences might be brought to bear; and courage to fulfil the duty to the client with complete independence and complete disregard of everybody, from the Government downwards. This was the great tradition which all practitioners of law should hold before them and follow.

There had recently taken place in the City of London the trial of a foreigner accused of the serious offence of spying. He had been tried by a judge and a jury whom no influence could deflect from the true and just administration of the law. He was defended by the counsel of his choice, whom nothing could frighten and who could be influenced by no consideration except justice and the interests of his client. He was represented by solicitors actuated by the same motives. He must have had during his trial a complete conviction that he was being tried according to the law of the land as anybody else would have been, and that he had the advantage of perfect fairness and perfectly courageous and honest advocacy. There were few countries in the world to-day where a foreigner charged with such an offence at such a moment could receive a perfectly fair and impartial trial. The students who were embarking on the great profession of the law should feel proud that they were to be part of that great machine which was responsible for maintaining the impartiality of British justice for the benefit of rich and poor, high and humble.

Invitations were accepted by: Sir Edward and Lady Knapp Fisher, Sir Roger Gregory, Sir Maurice Gwyer, K.C., Sir Reginald Poole, Sir John and Lady Stewart Wallace, Lady Welsford, Mr. W. C. Cleveland-Stevens, K.C., Mr. David Davies, K.C., Mr. R. A. Gordon, K.C., and Mrs. Gordon, Mr. A. M. Langdon, K.C., Mr. and Mrs. Ernest Bird, Mr. and Mrs. H. R. Blaker, Mrs. Burdett-Coutts, Mr. Ernest Capel Cure, The Master Chandler and Mrs. Chandler, Dr. E. G. M. Fletcher, Dr. Clement Gatley, Mr. W. W. Gibson, Mr. E. S. Herbert, Mr. R. F. W. Holme, Mr. L. S. Holmes and Miss Holmes, Mr. O. S. Humbert and Miss Humbert, Mr. and Mrs. A. M. Ingledew, Mr. and Mrs. F. H. Jessop, Professor A. D. McNair, Mr. W. E. Mortimer, Mr. G. D. Muggeridge, Dr. F. G. Neave, Lt.-Col. and Mrs. Newson, Mr. and Mrs. Charles Norton, Mr. F. A. Padmore, Professor D. Hughes Parry, Dr. Harold Potter, Dr. and Mrs. W. A. Robson, Mr. and Mrs. H. E. Salt, Mr. Francis Smith, Mr. and Mrs. H. Nevil Smart and Mr. and Mrs. F. Webster.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 16th February, at 7.15 p.m. Mr. E. D. Smith proposed the motion "That *Fender* v. *Mildmay* [1936] 1 K.B. 111, was wrongly decided." Mr. J. L. P. Harris opposed. Miss Colwill, Messrs. Ball, Burke, McQuown and S. E. Redfern also spoke. After Mr. Smith had replied the motion was put to the House and lost by three votes. There were thirteen members present.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, the 2nd March, at 7.15 p.m. Mr. D. H. Robinson proposed the motion: "That *Rose* v. *Ford* (1935), 52 T.L.R. 7, was wrongly decided." Mr. J. M. Walton opposed. Miss Colwill, Messrs. McQuown and Wood-Smith also spoke. After Mr. Robinson had replied, the motion was put to the house and carried by two votes. There were fourteen members present.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, the 9th March, at 7.45 p.m. Miss Constance Colwill proposed the motion:—"That some parts of the territories now subject to British rule should in the interests of peace be distributed among 'dissatisfied' powers." Mr. D. C. R. Puckle opposed. Messrs. Ball, Bell, Bull, Everett, Habersbon, Hill, Owens, Pritchard, Smith, and Wood-Smith also spoke. After Miss Colwill had replied, the motion was put to the house and lost by four votes. There were fifteen members and three visitors present.

University of London Law Society.

The University of London Law Society, on Tuesday, the 25th February, under the chairmanship of the President (Herbert Betuel, Esq., LL.B., barrister-at-law), held a debate "That the League of Nations is a mere cypher in International Life." Proposer, Mr. Kaul; Opposer, Mr. Rogers. The following also spoke: Messrs. R. Potiliatchoff, K. Chand (Hon. Secretary), P. Grunstan, Bilimoria, Levi, Kelly, Gill and Flood. The motion was carried by twelve votes to eleven.

The University of London Law Society held a debate at Gower-street on Tuesday, 10th March, when Mr. O'Connell Stranders, barrister-at-law, proposed that "The jury system is now obsolete." The motion was opposed by Mr. J. C. Hales, barrister-at-law. There also spoke: Miss Blant, Messrs. Kelly, Gill, Compton, Sacker, Bilimoria, Flood and K. Chand (Hon. Secretary) and Mr. Betuel (the President). The house equally divided. The President gave the casting vote with the opposition.

The University of London Law Society held a moot on Tuesday, 17th March, at Gower-street, when an "action" was brought by Rupert Gander against Eve Beautiful Ltd., claiming damages in that the defendant company did falsely and maliciously represent that Amelia Eulalia Squeezem was an angel of milk and blood and in every way suitable for marriage. The plaintiff married the said Amelia and she was, in fact, a devil of bones and vinegar as the defendant company well knew, and that the plaintiff had thereby lost thirty years' married life and his prospects ruined.

The defendant company brought a cross action against the wife for negligence in the use of lipstick, and for an injunction against the future use of same.

Mr. D. Llewyn Davies was the judge and gave judgment on the jury's verdict (Mr. J. C. Wood, foreman) of one farthing damages with costs.

Miss Blant was the capable clerk of the court, and the arrangements were under the direction of Mr. Chand (Hon. Secretary).

Plaintiff's counsel were Messrs. A. M. Kelly and R. E. Gill, and for the defendants, Rogers and Levy.

Mr. J. C. Hales, in the role of plaintiff, with Miss Muller as his wife, gave occasion for much laughter. Mr. Kraft was an admirable expert witness, and Mr. Dakin made a most worthy parson. Mr. Betuel tickled the audience's sense of humour while giving evidence as the secretary of the plaintiff's club.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 10th March (Chairman, Mr. G. M. Parbury), the subject for debate was: "That the case of *Fender* v. *Mildmay* [1936] 1 K.B. 111, was wrongly decided." Mr. G. Roberts opened in the affirmative. Mr. G. A. Russo opened in the negative. Mr. E. W. J. Cambridge seconded in the affirmative. Mr. A. T. Wilson seconded in the negative. The following members also spoke: Messrs. C. J. de S. Root, L. Lewis, P. W. Iliff, Q. Hurst, Miss U. A. Hastie, Messrs. A. Simkins, B. W. Main, W. M. Pleadwell and J. Montgomerie. The opener having replied, and the Chairman having summed up, the motion was lost by one vote. There were eighteen members and two visitors present.

A joint debate with the Lensbury and Britannic House Associated Clubs (Literary and Debating Section) was held at The Law Society's Court Room on Tuesday, 17th March, (chairman, Mr. P. H. North Lewis). The subject for debate was "That in this country there is one law for the rich and another for the poor." Mr. E. A. Campbell (Lensbury) opened in the affirmative. Mr. H. J. Baxter opened in the negative. Mr. Allaway (Lensbury) seconded in the affirmative. Mr. E. V. E. White seconded in the negative. The following members and visitors also spoke: Messrs. J. Van Ingen, G. Roberts, Oriel, David Caplan, Powell and Tew, Miss U. A. Hastie, Messrs. Rainsford Hannay, Ling, Sleman, Simkins, Fergusson and Main. The openers having replied, the motion was carried by thirteen votes. There were fifteen members and ninety-one visitors present.

The Hardwicke Society.

A meeting of the Society was held on Friday, 6th March, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. T. H. Mayers, in the chair. Mr. William Latey moved:—"That the reports of recent inquiries into the administration of justice reveal no substantial need for reform." Professor R. S. T. Chorley opposed. There also spoke: Mr. Lynd-Mallison, Mr. L. F. Sturge, Mr. A. P. McNabb, Mr. S. Nissim, Mr. J. A. Petrie, Mr. J. A. Grieve, and Mr. R. H. Hunt. The hon. mover having replied, the house divided, and the motion was lost by five votes.

A meeting of the Society was held on Friday, 13th March, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. T. H. Mayers, in the chair. Mr. J. A. Grieves moved: "That this House deplores the White Paper relating to National Defence." Mr. A. P. McNabb opposed. There also spoke, Mr. Fearnehough, Mr. Krusin, Dr. Hoenig, Mr. Walter Stewart, Commander Stride, Mr. Cooke, Mr. J. Reginald Jones, Mr. Roope, Miss M. C. Davies, and Mr. A. Newman Hall. The hon. mover having replied, the House divided, and the motion was lost by nine votes.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held on the 4th March, at No. 60, Carey-street, London, W.C.2, with Mr. C. S. Bigg (Leicester) in the chair. The other Directors present were: Sir Norman Hill, Bart., Sir E. F. Knapp-Fisher, Sir Edmund Cook, C.B.E., and Messrs. E. E. Bird, P. D. Botterell, C.B.E., T. G. Cowan, T. S. Curtis, E. F. Dent, R. Farmer (Chester), O. J. Humbert, G. Keith, C. G. May, R. C. Nesbitt, L. F. Paris (Southampton), R. B. Pemberton, H. F. Plant, W. N. Riley (Brighton), E. Sant (Salisbury), A. B. Urmston (Maidstone), H. White (Winchester), and the Secretary. £973 13s. 4d. was distributed in grants to necessitous cases, sixteen new members were admitted; and other general business was transacted.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that The Right Hon. Sir THOMAS INSKIP, C.B.E., K.C., M.P., be appointed Minister of the Crown for the Co-ordination of Defence.

The King has been pleased to approve that Sir DONALD BRADLEY SOMERVELL, O.B.E., K.C., M.P., be appointed Attorney-General in succession to The Right Hon. Sir Thomas Inskip, C.B.E., K.C., M.P.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. ROBERT A. GORDON, K.C., be appointed Recorder of Margate, to succeed Mr. F. W. Gentle. Mr. Gordon was called to the Bar by the Inner Temple in 1904 and took silk in 1924.

The Lord Chancellor has appointed Mr. Registrar A. STIEBEL to be Senior and Chief Registrar in Bankruptcy in the High Court of Justice, in succession to Sir Frank Mellor, who has retired. The Lord Chancellor has also appointed Mr. CYRIL JOHN PARTON to be a Registrar in Bankruptcy of the High Court of Justice, to fill the vacancy amongst the Registrars caused by Sir Frank Mellor's retirement. Mr. Registrar Stiebel and Mr. Parton were called to the Bar by Lincoln's Inn in 1899 and 1904 respectively.

Mr. W. H. COVERDALE, solicitor, of Ripon and Leeds, has been appointed H.M. Coroner for the Ripon and Kirkby Malzeard County District of the West Riding of Yorkshire. He succeeds Lieut.-Colonel J. C. R. Husband, who recently resigned after nearly fifty years' service. Mr. Coverdale was admitted a solicitor in 1898.

Mr. CHARLES HUBERT PLACKETT, solicitor, of Messrs. Plackett, Calvert & Whitelock, of Leeds and Harrogate, has been appointed Deputy Coroner for Ripon and Kirkby Malzeard. He was admitted a solicitor in 1910.

Mr. SYDNEY G. THOMAS, solicitor, of Builth Wells, has been appointed Clerk to the Justices for the Petty Sessional of Builth, in the place of Mr. H. V. Vaughan, who has resigned after holding the appointment for thirty-five years. Mr. Thomas was admitted a solicitor in 1920.

Mr. WILLIAM HENRY BENTLEY, Town Clerk of Swindon, has been chosen for the position of Town Clerk of Leicester, to succeed Mr. H. A. Pritchard, who has retired. Mr. Bentley was admitted a solicitor in 1922.

Mr. H. BEDALE, Town Clerk of Bridgwater, Somerset, has been appointed Town Clerk of Hornsey, and will begin his duties on 1st July. He was admitted a solicitor in 1929.

Mr. R. JAMIESON PARKER, of Lincoln, has been appointed Clerk to the Alford (Lincolnshire) Justices.

Professional Announcements.

(2s. per line.)

NOTICE OF REMOVAL.—From 23rd March the address of SHEFFIELD, POWELL AND SCOTT TUCKER will be 15, Dowgate-hill, E.C.4. Telephone Central 5316/17.

Messrs. WILLIAM CHARLES CROCKER give notice that as from the 23rd March their address will be changed from 21, Bucklersbury and Mansion House Chambers to 42, Gracechurch-street, E.C.3 (opposite Monument Station Subway). New Telephone No.: Mansion House 8733.

Messrs. BARTON & HANNING, Solicitors, of Holborn Viaduct House, E.C.1, announce that after the 22nd March their offices will be at 81, Cannon-street, E.C.4. Their telephone number will remain City 1545 as at present.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

Messrs. Thomas Skinner & Co. announce that "The Stock Exchange Official Year Book, 1936" will be published on 25th March.

The regulations for the Barstow Scholarship Examination, to be held on 11th and 12th December, 1936, in the Middle Temple Hall, are now available.

The Directors of the Midland Bank Executor and Trustee Co. Limited have the pleasure to announce that they have elected Mr. J. G. Buchanan to a seat at their Board.

The annual dinner of the Incorporated Society of Auctioneers and Landed Property Agents was held at the Savoy Hotel on Thursday, 12th March. Mr. Kelynge R. England, President, was in the chair.

The next Quarter Sessions of the Peace for the Borough of Wolverhampton will be held at the Sessions Court, Town Hall, North-street, Wolverhampton, on Tuesday, the 7th April, at 10 o'clock in the forenoon.

The death of Mr. Ernest Edward Lucas, for forty-eight years the valued and much-respected clerk with Messrs. Godden, Holme & Ward, solicitors, of 34, Old Jewry, E.C.2, occurred on Monday, 16th March.

Mountain Ash Urban District Council have decided to present an illuminated address to Mr. Arthur Pincombe, Clerk to the Council, on the occasion of his completion of twenty-two years as Clerk. Mr. Pincombe was admitted a solicitor in 1907.

Miss Ethel Bright Ashford, B.A., Barrister-at-Law, will read a paper on the new Public Health (Consolidation) Bill at a meeting of the Incorporated Society of Auctioneers and Landed Property Agents, at 34, Queen's Gate, S.W.7, at 7.30 p.m., on Tuesday, 24th March. Refreshments will be served just prior to the meeting.

The Council of Legal Education have issued the prospectus of lectures for the Easter Term and Trinity Term which will be delivered at the Niblett Hall, Inner Temple. The rules for the examination to be held on 28th, 29th and 30th September and 1st and 2nd October, 1936, in Gray's Inn Hall, have also been published.

Auctioneers have decided to urge the Government to make provision in the Tithe Bill for the compensation of tithe collectors for the loss which would result to their business. A meeting of all members of the Incorporated Society of Auctioneers affected by the proposed Bill will be held immediately, so that recommendations can be sent to the Ministry of Agriculture.

The Midland Bank announces the retirement on 31st March next of Mr. J. G. Buchanan, Joint General Manager, after nineteen years of highly valued service with the Bank. Mr. C. T. A. Sadd, formerly an Assistant General Manager, has been appointed a Joint General Manager, and Mr. G. A. Castle, formerly a General Managers' Assistant, has been appointed an Assistant General Manager.

The next examinations of the London Association of Certified Accountants will be held on 2nd, 3rd and 4th June, in Belfast, Birmingham, Bristol, Cardiff, Cork, Dublin, Edinburgh, Glasgow, Hull, Leeds, Liverpool, London, Manchester, Newcastle-on-Tyne, Nottingham, Plymouth and Sheffield. Women are eligible under the association's regulations to qualify as certified accountants upon the same terms and conditions as are applicable to men. Particulars and forms are obtainable at the offices of the association, 50, Bedford-square, London, W.C.1.

At the fourth meeting of the Metropolitan and Southern Counties Students' Society of the Incorporated Association of Rating and Valuation Officers a lecture was delivered by Mr. T. C. Penn, F.R.V.A., Rating and Valuation Officer, Woking, on "Registration of Electors." Following a brief history of the Representation of the People Acts and the voting system prior to their introduction, the lecturer proceeded to give a detailed explanation of the qualifications for Parliamentary and Local Government Franchise, Absent Voters' List and Jury List.

Mr. Geoffrey Shakespeare, Parliamentary Secretary to the Ministry of Health, on 12th March received a deputation from the Joint Superannuation Committee, consisting of representatives of the Association of Municipal Corporations,

the County Councils Association, the Urban District Councils Association, the Rural District Councils Association, the National Association of Local Government Officers and the Trades Union Congress General Council. The deputation was introduced by Sir Henry Jackson, Bart., M.P., who emphasised the urgency of applying the principle of compulsory superannuation to the whole of the Local Government service, and indicated that complete agreement had been reached between the bodies mentioned above. Sir Henry Jackson was supported by Alderman G. B. Lomas-Walker, Chairman of the West Riding County Council, and Mr. H. E. Clay, representing the Trades Union Congress General Council. Mr. Shakespeare, in reply, expressed appreciation of the preliminary work done by the bodies represented, indicated that the Government were in agreement with an extension of superannuation, and said that their present intention was to introduce a Bill next Session. The Minister hoped to be able to discuss later with the Joint Committee the scope and details of the proposed measure.

Wills and Bequests.

Mr. Robert Dudley Baxter, solicitor, of Notting Hill, W., late senior partner in Baxter and Co., Parliamentary solicitors, left estate of the gross value of £140,326, with net personalty £139,092. He left £200 to the Solicitors' Benevolent Association; £100 to the Princess Louise Kensington Hospital for Children; £100 to the Homes for Aged Poor; and he cancelled a loan certificate for £100 which he held on St. John's Church Hall, Clarendon-road, W.11.

Mr. William Maynard How, solicitor, of Shrewsbury, Bailiff and Bursar of Shrewsbury School for forty years, three times Mayor of Shrewsbury, left estate of the gross value of £80,905, with net personalty £72,113. He left £800 to the vicar and churchwardens of St. Giles, Shrewsbury, for augmenting the endowment of the living; £100 to the Shropshire Bishopric Fund for augmenting the endowment of the proposed bishopric when constituted, and £100 to the Solicitors' Benevolent Association.

Mr. Bernard Lias Reynolds, solicitor, of Beaconsfield, left £39,858, with net personalty £33,174.

Mr. Charles Spencer Thorn, solicitor, of Prestatyn, left £15,316, with net personalty £15,245.

Mr. Robert Dunn Proud, retired solicitor, of Hungershall Park, Tunbridge Wells, late of Bishop Auckland, left estate of the gross value of £160,111, with net personalty £149,542. He left £2,000 to the Vicar and Churchwardens of St. Andrew's Church, Bishop Auckland; £100 to the Lady Eden Hospital, Bishop Auckland; and £100 to the Bishop Auckland Cricket Club.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Witness Part II.	MR. JUSTICE BENNETT. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Mar. 23	More	Jones	*More	Andrews
,, 24	Hicks Beach	Ritchie	Ritchie	More
,, 25	Andrews	Blaker	*Andrews	Ritchie
,, 26	Jones	More	More	Andrews
,, 27	Ritchie	Hicks Beach	*Ritchie	More
,, 28	Blaker	Andrews	Andrews	Ritchie

	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Mar. 23	*Ritchie	*Hicks Beach	Blaker	Jones
,, 24	*Andrews	*Blaker	Jones	*Hicks Beach
,, 25	*More	*Jones	Hicks Beach	Blaker
,, 26	*Ritchie	Hicks Beach	Blaker	*Jones
,, 27	Andrews	*Blaker	Jones	Hicks Beach
,, 28	More	Jones	Hicks Beach	Blaker

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 2nd April, 1936.

	Div. Months.	Middle Price 18 Mar. 1936.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	114½	3 9 10	3 1 1
Consols 2½%	JAJO	85	2 18 10	—
War Loan 3½% 1952 or after	JD	106¼	3 5 10	3 0 6
Funding 4% Loan 1960-90	MN	118½	3 7 6	2 18 4
Funding 3% Loan 1959-69	AO	103	2 18 3	2 16 6
Victory 4% Loan Av. life 23 years	MS	114½	3 9 10	3 2 2
Conversion 5% Loan 1944-64	MN	120½	4 3 0	2 0 0
Conversion 4½% Loan 1940-44	JJ	111½	4 0 9	2 4 8
Conversion 3½% Loan 1961 or after	AO	106	3 6 0	3 3 0
Conversion 3% Loan 1948-53	MS	105	2 17 2	2 10 3
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 5 9
Local Loans 3% Stock 1912 or after	JAJO	96	3 2 6	—
Bank Stock	AO	380	3 3 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	86	3 3 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	117	3 16 11	3 0 0
India 3½% 1931 or after	JAJO	97⅓	3 11 10	—
India 3% 1948 or after	JAJO	85½	3 10 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118½	3 15 11	3 8 9
Sudan 4% 1974 Red. in part after 1950	MN	115½	3 9 3	2 14 7
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 15 4
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	110	4 1 10	2 13 5
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	110	3 12 9	3 5 8
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	104	3 12 1	3 7 4
Canada 4% 1953-58	MS	112	3 11 5	3 1 7
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	101	3 9 4	—
*New Zealand 3% 1945	AO	101	2 19 5	2 17 6
Nigeria 4% 1963	AO	113xd	3 10 10	3 5 8
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 2
South Africa 3½% 1953-73	JD	109	3 4 3	2 16 6
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	108	3 4 10	2 17 10
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	81	3 1 9	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100½	2 9 9	—
Metropolitan Water Board 3% "A" 1963-2003	AO	97	3 1 10	3 2 1
Do. do. 3% "B" 1934-2003	MS	96	3 2 6	3 2 10
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 5
†Middlesex County Council 4% 1952-72	MN	115	3 9 7	2 17 6
† Do. do. 4½% 1950-70	MN	118	3 16 3	2 19 10
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106	3 6 0	3 3 11
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	114½	3 9 10	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	140½	3 11 2	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130½	3 16 8	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—
Southern Rly. 4% Debenture	JJ	113½	3 10 6	—
†Southern Rly. 4% Red. Deb. 1962-67	JJ	115½	3 9 3	3 2 4
Southern Rly. 5% Guaranteed	MA	132½	3 15 6	—
Southern Rly. 5% Preference	MA	119½	4 3 8	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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Stock

Approximate Yield with Redemption	
s.	d.
1	1
—	
0	6
18	4
16	6
2	2
0	0
4	8
3	0
10	3
5	9
—	
—	
—	
—	
0	0
—	
—	
8	9
14	7
15	4
13	5
5	8
7	4
1	7
—	
17	6
5	8
8	2
16	6
10	0
—	
0	0
17	10
—	
—	
—	
—	
—	
—	
2	1
2	10
18	5
17	6
19	10
—	
3	11
—	
—	
—	
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2	4
—	
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over 115, calculated